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THE LAW *of* *the* CITY PLAN

By FRANK BACKUS WILLIAMS
of the New York Bar

A careful and authoritative pamphlet on city planning and how to accomplish it. The texts of selected statutes and a bibliography are included.

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THE LAW OF THE CITY PLAN*

ADVANTAGES OF CITY PLAN

If intelligent and careful planning is necessary to the attainment of economy and efficiency in construction of any sort—and it will scarcely be asserted that they are mere matters of luck—it follows that the more complicated and extensive that construction is, the more essential it is that it should be planned. A city is a huge agglomeration of social and economic interests, under many independent heads, each seeking, through the city government, its expression in the physical life of the locality. The aim of that city government should be to harmonize these interests in the unity of the locality, as the only method of giving the greatest expression to each of these interests that is compatible with the fullest expression of the interests of all. Evidently here is an enterprise, extensive and complicated beyond any private undertaking, supremely in need of the guidance of a plan.

Self evident truths are usually difficult to prove. Such truths, while often ignored, are seldom denied, but may with profit be illustrated. The advantages of a city plan are so well stated by Nelson P. Lewis, Esq., chief engineer of the board of estimate and apportionment of the City of New York, and president of the National Conference on City Planning and the American City Planning Institute, in his book entitled, "The Planning of the Modern City"¹ that we cannot do bet-

ter than quote him for that purpose. In his chapter on "The Economic Value of a City Plan," Mr. Lewis says:

It may not be possible to express the advantages of a good city or town plan in money. Mr. John Burns, who may be called the father of city planning legislation (in England) has said that investment in a good plan, whether it be for new parts of a city or for the correction of older parts, if regarded for a period of a year, may appear expensive; if considered for a period of five years it will be profitable; when considered for a period of fifty years it will be an investment which in subsequent days will make the community regret that it did not adopt it sooner. Mr. Burns further notes that the neglected hamlets of a hundred years ago are the squalid industrial towns and cities of to-day, and he pleads that we so arrange the physical life of a hamlet, village, town or city that it can grow naturally and at each stage avoid cost, nuisance, ugliness and squalor which one sees wherever a town encroaches on the country.

Instances may be cited (continues Mr. Lewis) where towns have grown very rapidly and have developed into great commercial and industrial cities, although their plans violate almost every principle laid down by city planning authorities. Their growth, however, has been due to certain natural advantages and to the general development and prosperity of the districts tributary to them, and they have grown in spite of the handicap of a poor plan. When its defects and the embarrassment to business due to them become apparent, vast sums are often spent to cure the defects which might have been discovered and avoided had sufficient study been given to the plan when it was first under consideration, and the increased cost of doing business for a period of years and the large sums spent in the correction of the plan might have been saved. The cost of reconstruction has run far into the millions in nearly every large city except Washington, which was so planned as to provide for future growth. To give figures for different towns is unnecessary, but the total would be staggering.

Of the efforts to estimate with anything like precision the economic value of a city plan, Mr. Lewis says:

¹John Wiley and Sons, Inc., New York, 1916.

*EDITOR'S NOTE—This pamphlet is a portion of a book entitled "The Law of City Planning and Zoning" now being published by the Macmillan Co. in the Land Economics Series edited by Dr. Richard T. Ely, Department of Economics, University of Wisconsin. In this book Mr. Williams discusses, for the first time, the entire subject of the legal bases and applications of city planning, including, in addition to a fuller consideration of that phase of it here taken up, such other phases as the scope and fundamentals of city planning law; acquiring the land; excess and zone condemnation and replotting; public utilities; the water front; streets; set backs; traffic regulations; building regulation and zoning; city planning finance; planning for the promotion of beauty; planning administration in foreign countries and the United States. The book gives the references to the important legal decisions on the subject in its various bearings and discusses them; and treats in the same way the leading statutes and ordinances, giving the text of such of them as are most important.

It is very difficult to capitalize the advantages of any improvement or betterment which is for the free use and benefit of the general public. It may be possible to estimate the pecuniary loss suffered by individuals, by groups of individuals, or by corporations through delays and the increased expenses which are due to a bad plan. . . . Estimates could be presented which have doubtless been made with care . . . but those who have made them have been so intent upon making a case that other contributing causes may have been lost sight of. Even if due allowance is made for such omissions, the preponderance of evidence is so great that the general conclusion must be admitted to be sound. It is quite obvious, for instance, that if goods are to be moved from one point to another, and it be necessary in doing so to follow two sides of a triangle instead of traveling along the hypotenuse, there is a loss of time and an increase in cost. . . . To compute the delays which occur to traffic and apply them to the hourly expense of a team and driver and to argue that each team would have accomplished so much more during the working day is to neglect the personal equation of the driver and the improbability of his or his team's disposition or capacity for a sustained maximum effort during the entire working day.

When an attempt is made to estimate the value to the city or the state of the more robust and vigorous manhood and womanhood which would result from better living and working conditions, and the consequent saving in the annual budget for charities and the maintenance of order, we are again dealing with something which we know to be of enormous advantage, but which can scarcely be expressed in dollars and cents.

Such estimates, if not mathematical demonstrations, are nevertheless an aid in grasping the undeniable facts of the case. With this object in view, Mr. Lewis points out that:

If a million passengers are carried by surface railways or omnibuses each day—and this number is greatly exceeded in several large cities—and if the loss in time due to traffic congestion through inadequate street capacity averages ten minutes a day, the total loss of time would be equivalent to 20,833 working days of eight hours each. If the average pay of those who were subjected to this delay is assumed to be \$3, and if but one half of this time is a loss to their employers, the total loss in productive work during a year of 300 working days would be \$9,375,000, to say nothing of the loss of efficiency by reason of worry and wear and tear in reaching their places of employment. This would represent 5 per cent on \$187,500,000. If in this same city there were 60,000 horse and motor trucks that are subject to an average delay of half an hour a day, and if they repre-

sent a cost of \$5 for a day of eight hours, their loss in time, all of which would fall upon the employer or owner, would represent a value of \$5,625,000 during a year of 300 working days which is equivalent to 5 per cent on another sum of \$112,500,000. It may be argued that the expenditure of \$300,000,000 would be justified if these losses could be eliminated.

While such arguments (continues Mr. Lewis) are of little real value, they are frequently used; but why try and prove by figures something which is so evident that it cannot be gainsaid? If improvements to correct such defects and do away with such delays were not worth while, why are they so frequently undertaken? Why, also, is it that the cities which have the courage to undertake them are those which are conspicuous for their rapid increase in population and wealth? What induced them to undertake such great and costly improvements? . . . It was because they found that it paid in the case of other improvements and believed that it would pay again. Did Paris make a good investment when it expended hundreds of millions of francs in beautifying the city and making it a more attractive and beautiful place in which to live and do business? Ask the Parisians and see. Ask them also what prompts them to consider further great undertakings of this kind, unless it is due to the beneficial results of those carried out under Haussmann.

In the same way, Mr. Lewis points out, the vast improvements in German, English, Scotch, South American, Canadian, and our own greatest and most prosperous cities, have justified themselves with the people who have paid for them; and he points his moral as follows:

But why continue to put questions, the answers to which are self evident? Yes, a good city plan pays. The benefits . . . are quite apparent and every town which has tried to improve its plan seems satisfied that it has done a wise thing and would not go back to its old conditions. . . . How much better then if this enormous cost of rearrangement could have been avoided by a more careful study of the plan when it was first worked out. That would be constructive city planning, the advantages of which cannot be computed in money but which can readily be realized when we consider the enormous expenses which have been incurred by cities where this preliminary study was not given and where the corrections had to be made at a subsequent time.

WHAT PLAN SHOULD CONTAIN

Since the aim of city planning is the attainment through unity of efficiency and economy in city construction, there must be in all the steps of that con-

struction a plan, in outline at least, of the city as a whole, to which any part of that planning, however small, shall relate to be followed from time to time by the planning of details, extensions, and such modifications of existing features as unforeseen changes or further experience and study seem to dictate.¹

The complexity of city life being great, the factors in its physical development are numerous. In order to secure unity, the plan of the city should include and harmonize as many as possible of these factors, public, semi-public and private whether within the legal limits of the city or outside them, if near enough materially to affect the city or be affected by it; such as the street system, the water front and its improvements, the parks and other open spaces, the public and semi-public buildings and their sites, the transportation systems, local and long distance, with their freight and passenger stations and terminals, the gas, water, electric, and similar public utility systems, the subdivision of building land and the height, area with relation to the size of lot and use of structures on it.

The entire urban area, however, need not be planned in detail. Thus spaces for public buildings and parks should be reserved, to be devoted to more specific uses and laid out as required; in the newer parts of the city only the principal streets need be fixed, leaving the minor streets to be filled in

from time to time as the necessity for them arises; and beyond the present city, the city of the future may be left unplanned except for the laying out of the main thoroughfares connecting the city with the cities and villages outside, and, perhaps, the imposition of provisional building and zoning regulations for the areas between them.

PARTIAL PLANNING

Very few cities in this country have comprehensive city plans, although in many of them certain features have been thought out and executed with care and with good results. This partial method of planning is open to grave criticism. New York, for instance, built an extensive system of subway and elevated transportation to relieve congestion in the older parts of the city which, for lack of zoning restrictions, has been instrumental in adding new congested areas to the old ones. Nevertheless partial planning is by no means necessarily a mistake. The American public is not educated to the need of a comprehensive plan, but is sometimes alive to the advantages of some one feature of such a plan as, for instance, transportation or zoning; and the planner unable to do what he would, must do what he can. In such cases, however, the need of the general plan should always be kept in mind and as an incident of the smaller work, as much of the larger done as is feasible. This is in fact the practice of wise city planners. For instance all good zoning is based on preliminary surveys, which are partial planning studies.

ENFORCEMENT OF PLAN

The city plan, in order that the many features included in it may conform to it in their development, must be enforced. These features are widely different in their nature and characteristics, and the measures to be taken to

¹The legal map of a city consists of many sheets, each showing one or more features of the plan for a section of the city. For the provisions with regard to the map of the city of New York, see the Chapter (4th ed., 1918, by Mark and Wm. Ash) ch. X, title 4 (sec. 438-449). For similar provisions with regard to the map of Philadelphia, see Purdon's Digest of Statute Law of Pennsylvania, 13th ed., vol. III, p. 2942 ff. and supplement, 1905-15, p. 6744. The Pennsylvania law for second class cities is much the same: *ib.*, vol. III, p. 3088, sec. 569. For similar provisions for Baltimore, see sec. 84-86 of "A code of Public Local Laws of Maryland," art. 4, title "City of Baltimore," subtitle "Charter."

secure this conformity must vary accordingly. The public features, such as highways and public open spaces, are constructed by the city, or, if built by private persons, become public only by acceptance by the city; and the city, by controlling its own acts, can see to it that to this extent these features are in accord with its plan. The semi-public features, such as the privately owned utilities, are planned and constructed by private interests; but their location, in so far as it is on, over or under city property, is usually subject to the city's consent, which may be made dependent upon conformity to the city plan. The state also has the right to grant or refuse a charter to a utility, and to amend its charter; and also to prescribe, within certain limits, the character of service and the rates to be charged for it. A portion of this power the state usually delegates to the city; and could delegate more. All these powers could be used to obtain conformity to the city plan. The improvements of private land for private use, are made by the private owners of this land. To some extent, the plan of these improvements may be guided by the planning of the city's public features; but the city can control their construction only in so far as our constitutions, state and national, permit by virtue of what is known as the "police power." A certain amount of public control over private land and the uses to which it may be put is as essential to the planning of both the public and the private features of the city. The planning of the city's private features is accomplished for the most part by the regulation of the height, area and use of buildings; and these regulations are to be regarded as a part of the city plan. The subject of such regulation is discussed in a supplement to this magazine on "Zoning" (1), and will be

¹By Edward M. Bassett, Esq., issued with the May (1920) number of the NATIONAL MUNICIPAL REVIEW. Revised April, 1922.

referred to only incidentally here.

A measure of public control over land which is, and is to remain, in private ownership and use is essential to the carrying out of the public features of the city plan. If feasible, the city could ensure the possibility of the construction of its public features as planned by purchasing the land needed for them; but prudent planning must always anticipate present needs for many years. Cities, for lack of necessary funds, seem never able to purchase more land than is required for the immediate future, and to attempt to assess the cost of improvements on land so long before these improvements are needed, would be most unjust. Unless, therefore, the city can by some method make adherence to the public features of the plan binding upon the owners of the land affected by it, this land is sure to be used in ways which will make it very expensive and therefore practically impossible, when the time comes, to construct these features as they were originally planned. This, the history of many American cities only too clearly proves.²

In foreign countries where city planning has been most successful, adherence by the land owners to a plan containing a few of the main features of that the land owner shall not improve his land in any way which will interfere with the carrying out of that plan; or that, when the public subsequently the future city¹ is secured by providing

²See the report of Dr. Robert H. Whitten, at that time secretary of the Committee on the City Plan of the Board of Estimate of New York City, to that committee, dated November 20, 1917, on the "Erection of Buildings within the Lines of Mapped Streets."

¹The streets and, in some cases, a few other features. There are modifications in foreign laws whose purpose it is to avoid hardship to land owners in special cases; but since in the opinion of the writer they do not offer a solution of similar problems in this country, they have been omitted from the statement of the foreign rule. It should be noted, however, that even abroad, mitigations of the law have been found to be necessary.

takes the land, he shall receive no pay for any improvement infringing upon the plan made subsequent to its adoption.² This system has been in operation for many years, not only in Roman Law countries, but in England and Canada, whose laws and traditions are so like our own; and has not been found to be unjust to the land owner. The street is essential to the land owner in the profitable use of his land. The only right of which the plan deprives him is the right to build in the bed of mapped streets between the time when the plan is adopted and the time when it is carried out. In the vast majority of cases this right is worthless both because if the plan is a good one it indicates where the street and the building should be for the best interests of the land owner and because if the plan is carried out seasonably the street will be built before there is an economic demand for the building.

HOW THE COURTS LOOK AT IT

The need of protecting planned streets from the encroachment of land owners has always been appreciated in this country, and, at various times many of our states have passed laws for that purpose. Everywhere in the United States, however, except in Pennsylvania, these laws³ have been held to be a taking from the land owner of a right of use in his land and, therefore, to be contrary to the provision of our constitutions that no man shall be deprived of property for a public use without just compensation.¹

²Temporary structures, etc., are therefore universally permitted.

³For a reference to these laws, see Appendix A, Tables of Statutes; for the text of the most important of them, see Appendix B, Text of Selected Statute.

¹See report just cited (*Erection of Buildings within the Lines of Mapped Streets*, Dr. Robert H. Whitten, November 20, 1917). The law is settled to the effect as stated in the text everywhere in the United States where the question has arisen, except in Pennsylvania. The cases are given in Lewis, *Eminent Domain*,

The increased interest in city planning within recent years in this country has revived and strengthened the demand for some method of establishing the street plan on a secure basis, as is done abroad; and many suggestions have been made for the accomplishment of this result in a constitutional manner. It has been proposed that the city, when the plan is adopted, purchase or condemn an easement or option in the land, to acquire it, when needed, at its unimproved value; but the expense of the purchase of this right, with the proceedings to acquire it, added to the expense of taking the land, later on, would unquestionably make the land cost the city too much, and laws authorizing cities to adopt such a course would remain a dead letter.² It has been suggested that the land owner, in-

"If the improvements should be made in bad faith, with intent to throw an undue burden on the public, another element would enter into the consideration of the question which might, perhaps, produce a different result;" but see *Matter of City of New York (Briggs Avenue)*, 118 Appellate Division Reports (N. Y.) 222 (1907); and notes on same, 36 L. R. A. (N.S.) 273, and 17 Annotated Cases 1034.

Lewis, in his book on *Eminent Domain*, Callaghan and Co., Chicago, 3d ed., 1909, Sec. 226, Note 23, says, in explanation of the Pennsylvania decisions:

"Such an Act was held valid in New York on the ground that it was passed before there was any limitation in the Constitution of that State upon the power of eminent domain, and compensation for improvements placed within the lines of a proposed street was denied, although the street was not actually laid out until seventeen years after the map was made. *Matter of Furman Street*, 17 Wend. 649. This Case was followed in Pennsylvania without noticing the ground on which it rested. *North Street*, 70 Pa. St. 125." See in this connection *People ex rel N. Y. C. R. R. Co. v. Priest*, 206 N. Y. 274 at 288 (1912).

3d ed. sec. 226; Nichols, *Eminent Domain*, sec. 101 (at p. 282); See also *Windsor v. Whitney*, 95 Conn. 357 (1920), considered below.

Of interest in this connection is the dictum in *State v. Carragan*, Collector, 36 New Jersey Law Reports 52 (1872) that

²There is such a law in Connecticut for the planning of towns: Revised Stats., 1918, Sec. 391-396.

tending to improve land in the bed of mapped streets, should be required to give the city six months' notice, within which to acquire the land; but this instead of protecting the city would furnish the land owner altogether too easy a method of forcing the city to buy his land at his pleasure, instead of at the pleasure of the city.¹

In a number of states laws exist which provide that the owner of land, wishing to lay out streets with lots abutting on them for sale, shall submit his subdivision to the city for approval before the plan shall be recorded; and also forbid utilities in streets until such approval is obtained.² The private street, laid out by the land owner, all too often for his immediate profit, with no regard for the interests of the city as a whole, or those of the people who are to live on the tract in question, while by no means the only offender against the city plan, is probably the commonest one; and when the lots on such a street are sold to innocent purchasers and houses built on them, the city is practically forced to accept the street as a part of its public system, giving up its own plan in that locality; the only alternative seeming to be to allow the street to remain in private control,³ thus continuing one evil without lessening the others. The provision for approval as a prerequisite to record is effective; it is impossible in this country to sell land without a record title. The provision is also con-

stitutional;⁴ record being not a right but a privilege which the law, for reasons of public policy, may withhold.² Evidently such a provision can be used to the best advantage only in connection with an accepted city plan, as otherwise the planning of any given plot would not be related to the plan of other tracts of land and of the city as a whole.

Useful as are the laws providing for the approval of the subdivisions of owners desiring to sell land, as a prerequisite to record of the deeds, they do not prevent the owner who does not wish to sell from improving his land in such ways as often practically to force changes in important features of the plan, and in some cases their entire abandonment; as, for instance, by encroaching upon a mapped street, or building a factory or a row of costly houses entirely across it.³ In order that the plan may be adequately guarded, its main features must be protected by the police power of the state. It has therefore been suggested that an amendment to our state constitutions be urged giving cities the right to adopt plans binding land owners, as in Pennsylvania. At best, such amendments could be passed only after a long struggle; and it is to be feared that they would be held by the Supreme Court of the United States (which has not as yet passed on the question) to be contrary to the federal constitution. It is true that with proper city planning a good plan will be made for undeveloped territory and will be carried out seasonably; but in this country the probability of good administration is not regarded as a sufficient safeguard

¹Bauman v. Ross, 167 U. S. 548 (1897).

²See cases cited in 13 *Cyclopedia of Law and Procedure*, p. 597, note 599; also *State v. Register of Deeds*, 26 Minn. 521 (1880); *Van Huse v. Heames*, 96 Mich. 504; *Contra State v. Moore*, 7 Wash. 173 (1893).

³See the "Report on the Erection of Buildings within the Lines of Mapped Streets" just referred to.

¹See the report on the "Erection of Buildings within the Lines of Mapped Streets" already referred to; and for a more radical suggestion, see "A Survey of the Legal Status of a Specific City in relation to City Planning" by Edward M. Bassett, in the proceedings of the Fifth Conference on City Planning (Chicago, 1913) p. 46 at 48.

²For precedents see pp.

³Unquestionably the city has the legal right to condemn the land for its own system of streets regardless of the existing private streets, and the buildings abutting on them; but it would be seldom indeed that any city would exercise such a right.

against injustice in exceptional cases, as it is abroad. And there are many cases, especially in portions of the city already more or less built up, where injustice might be done. Take for instance a lot, all or an undue portion of which lies in the bed of a future street. The owner has nothing to gain by the street; and if, as often happens, its construction is delayed beyond the time when the lot might with profit be built up, the owner for many years must pay taxes on the lot, but cannot get any return on it. Again, suppose a deep lot on an existing street with a factory on the front portion of the lot and a proposed street planned to occupy its rear portion. The entire lot would hold with advantage perhaps two additional factory buildings. If the owner wishes to construct one such building, he can put it in the middle of the lot, and there is no loss to him in depriving him of the use of the bed of the mapped street; but if, in course of time, he needs a third building, the only land for it is the land devoted to the future street; and it is unjust to deprive him of the only use he can make of that land for many years. It is no answer to his claim of damage that when the rear street is built his land will be benefited, for under proper laws he must pay for that benefit when it comes. And the city may change its mind and never build the street; in spite of the fact that for years it has kept it on the map.

A NEW METHOD OF PROTECTING THE PLAN

A method by the employment of the Police Power of making a city plan of streets and perhaps a few other features binding upon property owners which, it is submitted, would be just to them and valid under our constitutions, was proposed by the writer at the last session of the National Conference on City Planning. In the discussion

which followed, Edward M. Bassett, Esq., suggested the addition of a board of appeals, and the proposal is here given, with this most important change, in the hope that it may lead to a solution of this difficult problem.

It is suggested that municipalities shall be authorized by state law to adopt plans binding upon them until amended in due form. If a land owner desires to locate an improvement in the bed of a mapped street or within mapped building lines (or perhaps on land destined, by the plan, for a small park or playground, or the site of a public building) he shall apply, in the building permit, for permission to locate an improvement contrary to the provisions of the city plan; and when, ultimately, the land is condemned he shall recover no damages for the improvement if it is so located without permission. The city, through its building department or other proper authority, shall grant this permission only when its refusal will unavoidably do the land owner substantial economic injury and in this connection shall take into consideration the possible uses of other land in the neighborhood belonging to the same owner and the possibility, in whole or in part, of changing the improvement or its location.

From the decision of the building department refusing permission to locate contrary to the city plan, there shall be an appeal to a board of appeals, who shall have the power to grant the permission with conditions calculated to lessen or altogether to avoid the expense to the city due to improvements when, later, the city condemns the land; no appeal to the courts being allowed until after resort to the board of appeals. This provision would both mitigate most if not all the hardship which the law might otherwise cause the land owner in special cases and make the law less vul-

nerable before the courts.¹ In both these respects a board of appeals would in this connection render a service

¹A draft of a statute along the lines suggested in the text was drawn up by Mr. Bassett, and is given below. For the sake of definiteness it was made as an amendment to the New York Charter. It should be noted that this charter provides that in the construction of all the features legally a part of the city map the city shall follow that map, except as amended in due form.

The suggested act is as follows:—

AN ACT

To amend the Greater New York charter in relation to the official map and plan, to prevent buildings in streets shown on such map and plan, and to empower the board of appeals to grant building permits in certain cases.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter VI of the Greater New York charter is hereby amended by adding after section 442 a new section to be known as section 442a, as follows:

§ 442a. Such map and plan is established to conserve and promote the public health, safety and general welfare. Accordingly for the purpose of preserving the integrity of such map and plan no permit shall hereafter be issued for any building in any street laid out in such map and plan, provided however that, if the land within such mapped street is not yielding a fair return to the owner, the board of appeals shall have power in a specific case to grant a permit for a building or buildings which will as little as possible increase the cost of opening such street or tend to cause a change of such map, and such board may impose reasonable requirements as a condition of granting such permit, which requirements shall inure to the benefit of the city. Before taking any action authorized in this section the board of appeals shall give public notice and hearing.

Section 2. Section 718d of chapter XIV-A of the Greater New York charter is hereby amended so that it will read as follows:

Board of Appeals. § 718d. The appointed members of the board of standards and appeals and the chief of the uniformed force of the fire department, exclusive of the other members, shall hear and decide appeals from and review any rule, regulation, amendment or repeal thereof, order, requirement, decision or determination of a superintendent of buildings made under the authority of title two of chapter nine of this act or of any ordinance or of the fire commissioner under the authority of title three of chapter fifteen of this act or of any ordinance, or of the labor law. They shall also hear and decide all matters referred to them or upon which they are required to pass under any resolution of the board of estimate and appor-

analogous to that which it has so admirably performed under zoning laws.²

tionment adopted pursuant to sections two hundred and forty-two-a and two hundred and forty-two-b of this chapter. *They shall also hear and decide applications for permits for buildings in streets laid out in the official map and plan of the city as provided in section 442-a of chapter VI hereof.* No member of the board shall pass upon any question in which he or any corporation in which he is a stockholder or security holder is interested.

Hearings on appeals shall be before at least five members of the board of appeals, and the concurring vote of five members of the board of appeals shall be necessary to a decision.

The words board of appeals when used in this chapter refer to the said appointed members of the board of standards and appeals and the chief of the uniformed force of the fire department, when acting under the powers conferred by this section.

NOTE—New matter in section 718d is in italics.

²In support of legislation for the establishment and protection of the city plan under the police power the late case of *Windsor v. Whitney* (95 Conn. 357; 1920) may be cited. In 1917 the State of Connecticut passed an act (Special Laws, 1917, No. 133; p. 837) for the planning of outlying parts of the town of Windsor in the outskirts of the City of Hartford. The act provides for the creation of a planning commission with power to establish a street and building line plan for this territory; gives the land owner an appeal to the courts if he considers the plan for his land unreasonable, and forbids land development, the sale of lots and the erection of buildings not in conformity with the officially adopted or sanctioned plan. No compensation for the establishment of the plan is provided for.

In his brief in support of this act the attorney for the town of Windsor says:

"We anticipate that the defendants will claim that a man has a right to build and use private ways on his own land, that that is all that the present scheme amounts to, and that the State cannot interfere with this right without compensation. Without denying the right of a land owner to maintain private ways on his own land which do not affect other property, directly or indirectly, we shall show that this is not the situation involved in the present case.

"Section 11 of this act provides that the provisions of the act shall not apply to the Windsor Fire District, in other words, to the village of Windsor. The growth of the City of Hartford toward the North is extending into the southerly part of the Town of Windsor and land development schemes like the one engineered by these defendants are now in progress and probably will be more numerous in the immediate future. The present act is intended to properly provide for the conditions which pre-

Illustrations of the service which a board of appeals could render in the administration of this provision of the planning law are numerous and varied; and of these illustrations I will cite three.

If a land owner desires to erect a brick structure in the bed of a mapped street, the board of appeals could offer to authorize a wooden building, pointing out that such a building could be amortized in a given number of years, with a fair return to the land owner on

the value of his land. No court would hold that (in the absence of other complications) the land owner was rightly aggrieved to whom such an offer was made, even if he could obtain a larger amount by violating the city plan, contrary to the general interest; for if the return is a fair one he is not unjustly deprived of his property.

If a building were proposed, a part of which only would project into the future street, the board of appeals could offer to consent to a building of

vail in the outskirts of a city.

"The complaint states that the defendants are endeavoring to sell a large number of building lots. The two parallel streets are 800 feet long. If the building lots are 50 feet wide, the usual width, there will be 16 building lots on each side of each of these streets, a total of 64. In addition there will be building lots on the cross street. It is obvious that in the natural course of events there will be a large number of houses erected on this tract within a few years and that a considerable number of people will live in them. This is not only probable but is the result which the defendants contemplate and are trying to bring about. It is respectfully submitted that this enterprise is one in which the State of Connecticut has a legitimate interest.

"If within the next few years this tract contains numerous dwellings and a considerable population, it will become the duty of the State of Connecticut and its agent, the Town of Windsor, to provide fire protection and police protection. In the interest of safety and morality lights must be provided. In the interest of health a sewer must be installed. Water must be furnished. The children must be provided with school facilities. In caring for all these essentials the State must use streets. We all know from experience that the normal result of such an enterprise is that the town sooner or later takes over such streets as public highways. If it does, grading, curbing, drainage, etc., becomes necessary and expensive. But whether these streets become public highways or not, the above public duties and many others will be eventually thrown on the Town of Windsor if the project of the defendants becomes a success.

"We think further that the State and its agent, the town, are fairly entitled to take into consideration the relation of the tract in question to the general lay-out of highways in the town, both those already existing and such highways as the future is likely to call for in the neighborhood. It is obvious that if one land owner lays out streets according to his notions and the adjoining owner adopts an entirely different scheme, when the town eventually takes both

groups of streets, the performance of its public functions will be greatly complicated. Wide, straight streets are not merely beautiful—they are the best streets for practical purposes. It is certainly not unreasonable that the town should have some control over the matter in advance.

"It may be contended that the time for the town to take a hand in the matter is when the necessity for actual public care arises. But we respectfully maintain that the state is fairly entitled to look forward to probable conditions contemplated by the parties in interest with proper foresight for its future duties and that this is supported by common sense and by the authorities which we have cited above. It is ridiculous to say that the state must stand by and watch the defendants and their vendees build up a considerable community and then step in and straighten out the street problems at greatly increased expense to both the State and the parties then concerned. The prudent and sensible thing for the State to do is to have its say now. This is what the present act seeks to accomplish. It is clear from the above citations that the police power of the State would enable it to handle the situation when the community has once come into existence and we think it equally clear that the police power of the State is broad enough to enable it to anticipate the future conditions indicated by the situation."

In sustaining the Act, the Court says:—

"Unless this regulation can be supported as a legitimate exercise of the police power, the Act must fall. A town commission plan such as this Act contemplates is distinctly for the public welfare. Its theory is to lay out streets when and where the public need them, and of adequate width to meet the requirements of the community and of transportation. In such a plan each street will be properly related to every other street. Building lines will be established where the demands of the public require. Adequate space for light and air will be given. Such a plan is wise provision for the future. It betters the health and safety of the community; it betters the transportation facilities; and it adds to the appearance and whole-

which the projecting portion was only one story high; backing up the proposal by plans showing the suitability and yield of such a building in such a location.

If the city intended to build the street within, perhaps, five years, the board could be authorized, with the consent of some proper city authority, to agree with the land owner that the city would build it within that time. This agreement would usually make it certain that the location of the building with relation to the future street, so soon to be built, was the most profitable one, especially if the building was to be an expensive one.

A provision, under the police power, making a few of the essential features of the city plan binding upon the land planned is essential to the success of city planning in this country. The provision here suggested would seem to accomplish everything which is secured by the provisions for the same purpose of foreign laws, by methods already familiar in this country, and therefore more likely to win the approval not only of city planners, but of our courts.

someness of the place, and as a consequence it reacts upon the morals and spiritual power of the people who live under such surroundings. The demands of a large city may excuse congestion but in a small city or a country town there is no excuse for such living conditions. But unless some authority controls and regulates the land development, we may look for too narrow streets, too few or no building lines, and buildings erected, unstable in character, unsuitable in material, and inappropriate in construction. Our large communities all have their examples of the unregulated layout of streets and building lines and buildings; of instances of land development so as to yield the last penny to its promoters regardless of the public welfare; of community eyesores; or streets made over, whole sections changed, because at the beginning no reasonable provision was made for the safety, health or welfare of the community.

"Such an Act as this is conceived in public wisdom and serves great public ends. Courts will be reluctant to destroy it and with its beneficent purposes." 95 Conn. 362-3.

It should be noted that there is a material

THE CITY PLANNING COMMISSION

The prevailing form of planning executive in this country, both for cities and for smaller communities,¹ is the commission. The first permanent official planning commission was appointed in Hartford, Connecticut, in 1907² and there are now hundreds of such commissions in the United States. Prior to 1907 city planning was wholly a voluntary movement of private citizens, inaugurated by a chamber of commerce or other society or by a committee formed for the purpose and supported entirely by private funds. By such experiments the feasibility and usefulness of planning was proved sufficiently to induce the public authorities to adopt it. Thus to this citizen movement we owe official city planning in this country; and any community which cannot obtain an official planning commission should form an unofficial one, as a first step to that end.

¹And for Counties in the few cases in which they have attempted to plan; See Appendix A, Table of Statutes.

²Special Laws, Conn. 1907, no. 61, amended; *ib.* 1909, no. 34, sec. 6, and no. 74.

difference between the Connecticut statute and the statutes for the establishment of city plans sustained by the courts of Pennsylvania and held invalid in all the other states in which the question has been raised. The Connecticut statute, unlike the others, provides for a modification of the plan to suit special circumstances and remove special hardships, granting the land owner feeling himself aggrieved an appeal to the regular courts for the purpose; and it is for this reason that the Connecticut judges, in the case under examination, in which the owner did not avail himself of this method of relief, is justified in assuming that "the regulations as to the lay out of the streets and building lines, and as to the issuance of building permits, are reasonable for that section and location." It may well be that, under Connecticut law and procedure, provisions for modification of the plan by appeal to the regular courts, especially in administering an act which applies only to outlying territory, would work well; whereas under acts to be made applicable also to city land, provisions for a board of appeal, more or less as suggested in the draft act given above, would be more appropriate.

In the beginning of the city planning movement planning commissions were often created for the purpose of preparing a city plan, and when this was done, ceased to exist; but the mistake of such a policy is now generally realized, and almost invariably permanent commissions are now appointed. The city is not a static thing to be made complete, according to model once for all, but a growing and changing organism. Not only must the plan be prepared but it must be enforced on forgetful and sometimes unwilling city officials and property owners, and added to or modified as the growth and change of the city demands. All this requires the watchfulness and study of a planning executive, — a duty which the commission that prepared the plan, if a proper one, is best fitted to perform. The planning commission should, therefore, from the start be a permanent one.

Official commissions can come into existence only by virtue of law; but it does not follow that in all cases an express law must be passed authorizing such a commission or it will be impossible to obtain one. If the commission is to have simply advisory power, — and, as we shall see, such a commission is by no means powerless, — the city can, in all probability, create it under its general powers; and in many cities planning commissions created by the legislative body of the city, or planning committees of that body appointed by it, to whom it refers planning matters which come before it, ex-

In a number of states some or all cities or other local governments are given by law or constitutional enactment the "home rule" right to adopt or amend their own charters and may, therefore, include in them a provision for a city planning commission, with more than advisory power, if that is their desire; the extent of that power

ist, and have done good work without any express provision of law authorizing them.¹

depending upon the laws and constitution of the particular state.² As a rule such cities may give planning commissions so created all the planning power which the city itself possesses. Cities under a commission form of government do not consider it a departure from principle to create planning commissions.

In several states planning commissions, for all or certain classes of cities or individual cities or cities and smaller communities are provided for by express statute.³ Under these statutes the local authorities are in some cases directed to create commissions;⁴ but most of these statutes are permissive, these authorities being given the power to exercise or not as they see fit. The advantage of permissive statutes is that they compel the advocates of planning to educate the community to its use before the attempt to plan is made.

There are various methods of appointing or designating the members of planning commissions. When the commission comes into existence under the city's general powers, if created by the mayor, its members are appointed by him; or if created by the council, its members are appointed by it or it authorizes the mayor, with or without its concurrence, to appoint them; for while

¹Examples of planning bodies so created are the Commission for Bridgeport, Connecticut, authorized by the Common Council August 18, 1913; that for Providence, Rhode Island, authorized by ordinance, ch. 599, No. 407, approved December 2, 1913; and the committee of the Board of Estimate and Apportionment of New York City, authorized by it January, 1914.

²See on this subject generally "The Law and Practice of Home Rule," by Howard Lee McBain, Columbia University Press, New York, 1916.

³See Appendix A. Tables of Statutes.

⁴As, for instance, in Massachusetts: the citation is given in the table just referred to.

there is no legal reason why there should not be more than one such planning commission in existence in the same city at the same time, it is not probable that this will occur.

When commissions are formed by virtue of a statute or a charter provision, the statute or charter provides for a method of their appointment. In some cases the city council, authorized to create a commission if it sees fit, is also authorized to decide how its members shall be named; but usually the law directs that, in so far as the members are not designated by law, they shall be appointed by the mayor or by the mayor and council. Appointment solely by the mayor would seem to be the better method. The principle of centralizing both power and responsibility in government is now universally regarded as the correct one, especially in the appointment of officers for the performance of duties with regard to which the general public has little knowledge and interest. This is a part of the well known "short ballot" principle.

MEMBERSHIP OF COMMISSION

The number of members of the commission is as a rule between five and fifteen, the usual number being seven or nine. In special cases, as in metropolitan planning, where several local governments are involved, there is much to be said for a large commission, although even in that case it should be avoided if politically possible; and often for special work such as for instance the preparation of zoning regulations and maps, a representation of the various interests involved larger than that which the usual planning commission affords, seems desirable; but a sub-committee may be formed to aid in that work, without enlarging the permanent commission. That commission in city planning should as a

rule be kept small; for while it is important that it should be representative, it is even more so that it should be efficient, as the large commission in executive work seldom is.

The provisions with regard to the qualifications which the members of the commission shall have for the work vary in the different laws and ordinances under which the commissions are appointed, in some cases the appointing authority being left free to use its own judgment, in others that authority being required to select men skilled or learned in certain matters; in still others, and this is the more common provision, the law requiring that a part, generally from a half to three-quarters of the whole, shall be the incumbents of certain designated city offices, while the rest, to be selected by the appointing authority, shall be citizens holding no other city office. In a few cases the law provides that not more than one or two of these selected members may be non-residents.

The city officials who *ex-officio* are oftenest designated as members of the planning commission, are (in the order of frequency) the mayor, the chief of the department of public works, the head of the park board or department, and the city attorney. Often, too, a representative of the legislative branch of the city government, or even representatives of its two branches, if it is bicameral, are so made members. The periods of time for which the selected commissioners are appointed are usually made overlapping so as to secure a measure of continuity.

The reason for including on the commission both city officials and lay members is that both the immediate and the more far-reaching points of view may be represented. The plan must be sufficiently ideal to provide for progress, sufficiently general to unify the city in its growth, sufficiently prophetic

to provide for the future; but the ideals must be capable of practical fulfilment and closely related to the city as it is. There is also the danger, especially in the large cities, that the officials will be too busy with what they are likely to regard as duties which are more specially theirs, to give attention to planning. The individual problems of each city may well modify the choice of members for the commission. It should be remembered, however, that the commission is entitled to the assistance and advice of the city officials. There is, for instance, little need for including the city attorney as such in the membership.

THE POWERS OF COMMISSION

The powers of commissions in matters relating to city planning under the various laws may be characterized as those of (1) general advice; (2) advice a prerequisite to action by other city authorities; (3) advice which may be overruled only by more than a majority vote of the city council; (4) absolute control; (5) in addition such commissions are given powers of various sorts with regard to special phases of planning, are made the agent of the city in various matters of city construction or are required to perform certain duties for the city.

General Advice

Practically all planning commissions, including those which are granted additional powers,¹ are given the right to make a plan of the city and its environs, whether within the legal limits of the city or not. This plan as a rule may contain anything which the commissioners think bears on the planning and construction of the city, even if in some cases the city has no power to act on it. The commission may also make

reports on any or all of these matters, and give advice to city officials, or private corporations and individuals with regard to them. The right to receive full information of the action of the city authorities on planning matters as soon as it is inaugurated and before such action becomes final, is often added.

Innocuous as this power seems, it is nevertheless most useful. A good plan, backed up by intelligent publicity, of itself has great influence on the community and on city officials. Gradually some of its features, more or less modified, sometimes for the better, often, unfortunately, for the worse, are carried out; and even if city improvements, rightly or wrongly so called, are made in disregard of it, blocking some of its important features, there is every probability that its influence for good will reassert itself later. Most of the earlier commissions were given merely the power of advice, and nevertheless justified their existence; and a number of the later statutes are similar in this respect.²

Advice a Prerequisite to Action by Other City Authorities

Most of the recent laws for the creation of planning commissions, in addition to granting them the power of "general advice," provide that before any other city authority takes final action on any one of certain specified matters, it shall notify the commission and await for a certain time a report from it. That report the commission is given the right and duty to submit, but the authority concerned may dis-

¹Such as, for instance, those created under the Minnesota, New Jersey and New York laws, given in full in Appendix B, Text of Selected Statutes.

²As, for instance, the commissions appointed under the Massachusetts laws. The reference is given in Appendix A, Tables of Statutes. Of this character also are the laws of New Jersey, 1911, ch. 71, and 1913, chs. 72 and 170, and the later laws of California, Nebraska and Oregon, listed in the Tables of Statutes, just referred to.

regard if it sees fit.¹ This is in accordance with the best thought on the conduct of representative government. If power and therefore responsibility are divided between the commission and the authority concerned, the voters do not know whom to hold accountable for action or inaction and its results; but under the provision in question that authority is required to listen to the advice of experts, but must itself act and assume full responsibility for so doing, in other words, is unable to indulge in the favorite political game of "passing the buck."

*Advice which may be overruled by
more than a Majority Vote of
City Council*

In several laws and ordinances for the creation of planning commissions the recommendations of the report which is a prerequisite to final action can be disregarded only by a vote of more than a majority of the city council, the usual requirement being two thirds.² The purpose of such a requirement is to increase the power over city planning matters of the experts in these matters without unduly dividing authority. In certain matters where stability is especially important there is much to be said for such a provision; but its wisdom in all the many matters of city government and construction which should be within the jurisdiction of the planning commission is more doubtful; for certainly city business must be promptly done, and it is to be feared that by such a requirement either the field of usefulness of the commission would be unduly limited,

or the city's business confused and delayed.

Absolute Control

In one or two cases³ the commission is given the right to make a report on the matters deemed of importance in planning, which the other city authorities must follow; or is made the power in the first instance to decide and in some cases to carry out the city's policy in these matters. Under such a system the commission is in reality the board of public works of the city, which loses the advantage of having a planning commission with the measure of detachment essential to the task of planning. Usually, too, such matters have a legislative side, and questions of policy with relation to them should be decided by a legislative body, with the advice and subject to the criticism of experts. If the commission is given complete authority in these matters, this advantage is forfeited.

*Method of Conferring Powers upon
Commission*

The powers granted to commissions vary greatly in character, and the methods of conferring them should vary accordingly. In so far as the power is that of "general advice," which other officials may profit by but are not required to regard or even await in their action, there can be no harm and may be much good in giving this power in the broadest terms; and such is the general practice. Even matters with regard to which the city has no legal right to act are included. This is done, as a rule, by empowering the commission to make a map of the city and its environs within and without its legal limits, including in it all matters which the commission deem relevant, and also, for full measure, giving it specifically the right to inves-

¹The law of Minnesota is of this class; and also the special law for Hartford, Connecticut, already mentioned, special laws for a number of other Connecticut cities, and the law of Wisconsin, in the table just referred to. See in this connection also the New York law, printed in full in Appendix B, Text of Selected Statutes.

²To this effect is the law of New Jersey printed in full in Appendix B, Text of Selected Statutes.

³As for instance, in Cleveland, under the provisions of its charter and ordinance, printed in full in Appendix B, Text of Selected Statutes.

tigate, report, and advise officials and private parties on all such matters.

When the report of the commission is made a prerequisite to action by other city departments, this power of report, whether it may be disregarded or overruled by these departments or not, should be limited to the consideration of the more general aspects of those few matters which most vitally affect the city plan; for the number of matters which relate to the city plan are very great indeed; there is very little of the city's business which does not in some degree or detail have such a bearing, and to refer most of the business transacted by the entire body of the city's officials to any one authority would cause intolerable friction and delay, even if these officials were under no obligation to follow its advice.

Perhaps the best method of giving this carefully defined power to the commission is to establish an official city map of those features which, unlike the commission's "general advice" map, city officials shall be compelled to follow. This map should become binding when adopted by the legislative branch of the city government, and should of course be amendable in the same way in which it is adopted. It should be the duty of the planning commission to prepare this map and suggest such additions and changes in it from time to time as seem desirable. Being binding upon the city no improvement could be inaugurated until first made legally a part of the map; and the adoption and change of this map should be forbidden until referred to the commission. More or less adequate precedents for such a map exist in legislation and practice in the country.¹ In default of such a map the matters in which a report from the commission is a prerequisite to final

action may be referred to it by naming them in the statute or ordinance.

Among the features of city construction which it seems clear should be referred to the commission in this way are highways of all sorts, including parkways, with their building lines or set backs,² sewers, water pipes, conduits, bridges, viaducts, tunnels, and other incidents; and parks, playgrounds, squares, and other public open spaces, and the water front, with its pier and bulk head lines, docks, warehouses, and other harbor improvements; and public buildings; and privately owned buildings, such as street railway stations and ferry sheds, in so far as located on public property; and transit lines and other public utilities, both on public and on private property, in so far as the permit for them is issued by the city. A precedent for the inclusion of most if not all of these features will be found in legislation in this country.³ Some statutes go further, embracing all "public improvements";⁴ but this would seem to be both too broad and too indefinite.

The same care that must be exercised in deciding what features of city construction shall be referred to the commission is needed in determining in what detail these selected features shall be so referred. Certainly it should pass upon the "location" of these features, which should include change of location, enlargement, alteration, discontinuance, etc.; and upon the width and grade of highways; and upon the plotting of subdivisions of private land:

²Building lines or set backs are a part of the official map of New York City. Laws, 1917, ch. 631-632 (called "Court Yards Abutting Streets").

³This statement is based upon the examination of the statutes for the preparation and adoption of plans or maps and the appointment of planning commissions cited in the notes and tables of this article; to which the reader desiring to verify it is referred.

⁴Minnesota, 1919, ch. 292.

¹Perhaps the best is that of New York City. For a reference to the provisions with regard to the map of that city see page 10, note.

for all of which there is precedent in this country.

In some laws the commission is directed to pass on the "design"¹ of features with regard to which it is given jurisdiction. This is giving the commission duties proper for an art commission to perform, and is wise only when such a course is advisable.

Art Commissions

In several statutes² the planning commission is also the art commission of the city. Except in small cities or towns, where it may be difficult to find suitable men in sufficient numbers to serve on the two bodies, the wisdom of this course is doubtful. To prove this assertion fully it would be necessary to define the duties of art commissions, which, for lack of space, cannot be done adequately here. Briefly, the main duties of such commissions are two in number: they should guide the city in its own work and defend it from the mistaken generosity or egotism of donors, in order that it may not be defaced but adorned in its growth. It is true that beauty is and must be an integral part of construction and not an afterthought; it is true that beauty and fitness for the purposes for which the structure or other improvement is intended cannot be divorced, or either one of them considered separate from location. Nevertheless the type of man who is fitted to serve on an art commission and on a planning commission are widely different, and better results will be obtained where it is possible to keep the two commissions co-operating but separate.

Miscellaneous Powers

In the various planning laws and ordinances commissions are given a va-

riety of specific and limited powers and entrusted with a number of duties, some more or less closely related to planning and others having no particular connection with it. The disadvantages of combining planning and art commissions have already been pointed out. The union of the planning and park boards, as provided for in some laws,³ is open to the same objection. The planning of the details of parks, and their use and maintenance, is a task which should be entrusted if possible to specialists. Under some laws the commission is given full power in the selection and condemnation of land for certain public purposes, such as parks.⁴ This, to the extent that it makes the commission practically the board of public works or the council of the city, is open to the same objections that have been urged to other provisions having such a result. Without citing all the powers of this nature conferred upon planning commissions in the various laws and ordinances,⁵ it may be said in general that in so far as possible the duties of the commission should be limited to planning.

Zoning

The duty of preparing and to some extent administering the zoning regulations of cities is of late more and more entrusted to planning commissions. This is planning work which such commissions are well fitted to do. Such a policy tends to unify all branches of planning. To what extent the policy is feasible and how it should be carried out and how aided by the work of other authorities cannot be developed

³Mass. Acts 1915, ch. 165; ordinance, City of Schenectady, New York, approved December 9, 1912; Connecticut Special Laws 1913, no. 351, sec. 10.

⁴Detroit Charter, ch. X, sec. 7 (f); Akron, Ohio, Charter, sec. 102.

⁵See Detroit Charter, ch. X, sec. 7 (C); Connecticut Special Laws 1907, no. 61, sec. 5; Minnesota 1919, ch. 292, sec. 3.

¹As, for instance, in the Wisconsin statute, already referred to.

²As, for instance, the law for the planning of third-class cities, etc., in New Jersey, printed in full in Appendix B, Text of Selected Statutes.

here. Fortunately the subject has just been treated most ably and fully in the "Zoning" supplement to this magazine already referred to.

METROPOLITAN PLANNING

It is a common thing for a city in its growth to overflow into the territory outside its legal limits. Before this occurs it is essential to the best interests of all concerned that this outlying territory, destined in fact if not in law to become a part of the city, should be laid out in conformity with the plan of the city, and to that end it is most desirable that both should be under some common planning authority. This can be brought about completely by a reasonable extension of the city's legal limits, or to some extent by giving the city the power to approve plans for the plotting of extensions or other subdivisions outside and within a certain distance of the city's boundaries. When this outside territory is already more or less thickly populated, and organized into local governments, there is still the possibility and the need of making common plans for the further development of what is sociologically one great city divided by artificial jurisdictional lines. In this case the city boundaries may still be enlarged to take in these communities but there are many objections to the extension of the planning jurisdiction of the city over local communities which have no voice in the city's government. A third alternative is the creation of a metropolitan planning district, with a planning commission, in which all the local governments are represented, at its head. In this way planning is done as a unit; but in other matters the local communities govern themselves, unless, indeed, there are other activities which these communities find it expedient to exercise in common. There is prece-

dent for such commissions in this country.¹

INTERSTATE METROPOLITAN PLANNING

Where the metropolitan district consists of many cities and towns, as for instance the districts around Boston, Philadelphia or New York, it is too late to prevent the complexity and confusion which already exist, and also more obviously necessary, as well as difficult, to mitigate their effects and prevent their increase by metropolitan planning. Where the district is in two states the legal difficulty of creating a common authority would not seem to be insuperable. A common policy in the planning of the water front and tributary territory under the jurisdiction of the one hundred and five municipalities and the other local governments in the states of New York and New Jersey, that make up the port of New York and the territory properly associated with it in port development, has led these states, by compact between them, ratified by the United States government, to create a Port of New York Authority; which is now engaged in making the plans for the work which it is its task, when made, to carry out.²

REGIONAL PLANNING

A city is not complete in itself, but dependent upon the resources of the district in which it is situated, just as that district is dependent upon the city where its interests focus. Quite as important as city planning is the planning of entire regions, with their resources, and the distribution of population and industry with due relation to these resources. There is as yet no provision for the enforcement of any such plan.

¹In Pennsylvania. The statute is given in full on p. 686.

²See Planning Commissions, New Jersey, and New York in Appendix A. Tables of Statutes, Interstate Planning Commission, in Text of Selected Statutes, and Metropolitan Planning in Appendix C. Bibliography.

If made, it would be advisory, and as such, nevertheless, of great value. There is no legal reason why the nation, or state, or any local government within the state, should not make regional plans for the information of its citizens.

* COUNTY PLANNING

A county, if its characteristics are those of a metropolitan district, may, and if properly organized for the purpose should, be empowered to do metropolitan planning. In so far as it is not such a district, there is every reason why it should do regional planning. Many features of the county, such as parks, main roads, sewerage and streams, could with advantage be regulated for the common good of all its inhabitants. The county could also encourage local planning within it, and the formation of local planning commissions for the purpose. There are already two such planning commissions

in this country, with advisory power.¹

STATE PLANNING

In a number of European countries the supervision of the planning of local governments, the supplementing and harmonizing of their plans, and to some extent regional planning, are functions of the central, or of the state government. This function has also been assumed by a number of the provinces of Canada² and, to the extent of experimentation, investigation and advice, by the dominion government.³ In this country one of our states has also created a state planning authority with advisory powers, and bodies with somewhat similar powers exist in other states.⁴ The creation of such a department of our national government has also been proposed.⁵ State and national planning, nowhere developed as it should be, is more noticeably lacking in the United States, and more needed, perhaps, than in any other country.

¹In New Jersey and New York; Appendix A, Tables of Statutes.

²This power is exercised by the officer or department having supervision in the particular province, over local government.

³Under the Commission of Conservation, created by 8-9 Edward VII, ch. 27 (1909); 9-10 Edward VII, ch. 42 (1910); and 3-4 George V, ch. 12 (1913), Canada.

⁴See appendix A, Tables of Statutes and Appendix B, Text of Selected Statutes.

⁵The proposal in question, which had the support of many associations and individuals interested in housing and planning, was embodied in a "Bill to create a Bureau of Housing and Living Conditions in the Department of Labor," introduced in the National House of Representa-

tives (66th Cong., 1st sess., July 8, 1919, no. 7014) by Congressman Tinkham of Massachusetts, which failed of passage. That town planning was intended to be included in its scope is indicated by the speech of its introducer (Cong. Record, vol. 58, p. 8913, July 12, 1919). Obviously planning is the proper method of improving housing and living conditions. The Republican national platform, also has come out in favor of making available to the people the valuable housing and town planning information which the national government has collected during the war and keeping it up to date; there has now been created, in the Department of Commerce, a Division of Building and Housing, to which two Advisory Committees, on Building Codes, and on Zoning, have been appointed.

APPENDIX A

TABLE OF STATUTES

I. APPROVAL OF PLATS A PREREQUISITE TO RECORD OF DEEDS

NOTE — Except as otherwise specified, the statute applies only to land within the city. Where it applies to land outside, and within a certain distance of the exterior limit of the city,

that distance is given. In a few cases the statute makes it unlawful to sell the land unless its requirements are fulfilled. These statutes are starred.

In all these tables, the reference is to the Session Laws unless otherwise stated.

- ARIZONA. 1921, ch. 27.
 CALIFORNIA. 1915, ch. 756, p. 1512; now General Laws, Act 2065, Sec. 4.
 CONNECTICUT. *Hartford*. 15 Special Laws, p. 661 (1909, No. 74.)
 GEORGIA. *Fulton County and City of Atlanta*. *1921, p. 216 (approved August 10) and an identical act, *1921, p. 219 (approved August 15), (6 miles outside Atlanta.)
 ILLINOIS. 1921, p. 260; being Smith's Revised Statutes, 1921, ch. 24, sec. 72 (1½ miles); *Counties*, 1921, p. 385; being Smith's Revised Statutes, 1921, ch. 34, sec. 25.
 INDIANA. 1921, p. 561 (5 miles); being Burns, 1921 Suppt., sec. 8657.
 KANSAS. 1921, ch. 99, 139.
 LOUISIANA. Constitution and Statutes, 1920, II, 1269, being Act 160 of 1918, p. 271 (Sec. 125), (3 miles.)
 MASSACHUSETTS. General Laws, 1921, ch. 41, secs. 75-81.
 MINNESOTA. 1919, ch. 292, p. 300.
 MISSOURI. *1921, p. 509 (approved March 30.)
 NEBRASKA. 1917, ch. 87 (3 miles.)
 NEW JERSEY. P. L. 1912, p. 436, amended 1913, p. 119, now Comp. Stat. 1st suppt. 1911-15) p. 413, secs. 25-27.
 NEW YORK. 1913, ch. 699, adding Art. 12-A to the General Municipal Law; *New York City*, 1916, ch. 513, amending charter, sec. 1540; *Rochester*, 1921, ch. 524; *Syracuse*, 1913, ch. 370 (3 miles.)
 OHIO. General Code, 1910, sec. 4346 (3 miles.)
 OREGON. 1919, ch. 311.
 PENNSYLVANIA. 1911, June 10; P. L. 872; being Pa. St. 1920 (Penn. Statutes complete to 1920, West Publishing Co.), secs. 3723-3727; amended 1921, May 17; P. L. 841. 1913, July 16; P. L. 752, sec. 3, being Pa. St. 1920, sec. 4381 (3 miles.)
 VIRGINIA. 1918, ch. 419 (15 miles.)
 WISCONSIN. 1909, ch. 162, amended 1917, ch. 404; now Statutes, 1921, sec. 62, 23 subd. (2) (1½ miles.)

II. CITY PLAN

Laws for the appointment of Planning Commissions (for which see Table III) usually authorize the preparation, and in some cases the adoption of a plan, as do also the following statutes.

CONNECTICUT. Revised Statutes, 1918, secs. 388, 390, 1921, ch. 30.
 MARYLAND. *Baltimore*. See "Code of Public Local Laws of Maryland," secs. 84-86, art. 4, title, "City of Baltimore," sub-title, "Charter."
 MICHIGAN. 1921, No. 348, amended 1921, 2nd Extra Session, No. 5.
 NEW YORK. *New York City*. Charter (4th ed. 1918, Ash), ch. X, title 4 (secs. 438-449); *Buffalo*. Charter, sec. 365, added by laws, 1922, ch. 411.
 PENNSYLVANIA. 1891, May 16; P. L. 75; sec. 12 amended 1913, July 22; P. L. 902 to be

found in Pa. St. 1920, sec. 19476; sec. 9 amended 1921, May 17; P. L. 844; repealed with relation to boroughs by sec. 1 of art. I of ch. XIII of Act of 1915, May 14; P. L. 312. *Townships, first class*, See Pa. St. 1920, sec. 7072. *Boroughs*, ib. secs. 1861-1866. *State highways*, 1921, Apr. 6; P. L. 107. *Philadelphia*. See Pa. St. 1920, secs. 19417-19418. See also a modification of the law with relation to parks and parkways in the *cities of the first class (Philadelphia)* 1915, June 7, P. L. 894, being Pa. St. 1920, secs. 3187-3189, which, however, is generally regarded as contrary to certain special provisions of the Constitution of Pennsylvania. See Opinions of City Solicitor of Philadelphia, p. 98 in Philadelphia Ordinances and City Solicitors' Opinions, 1920. See also *Shuster v. Phila.*, 239 Pa. St. 468 (1913.)

III. PLAN COMMISSIONS

Under some Statutes, Plan Commissions are also Art Commissions. These statutes in this table are starred. The Commissions are City Commissions, unless otherwise noted.

There are numerous special laws, charter enactments, and home rule constitutional and statutory provisions, under which the adoption of plans and the appointment of planning commissions are authorized, and in many cases have occurred, which are not mentioned in this table. Commissions merely with advisory powers usually may be and often have been appointed without express statutory authority.

In some statutes the commission is given more or less express authority with regard to zoning. These statutes are marked with a dagger (†). In some zoning statutes such authority is given city planning commissions. These statutes are given in this table, marked with a double dagger (‡).

CALIFORNIA. *1915, ch. 428, p. 708 now General Laws, Act 2389j. The statute applies only to *fifth and sixth class cities*. Many of the *cities of classes I to IV* have charter provisions authorizing the appointment of City Planning Commissions; and they all have the power to adopt home rule charters which shall include such a power. See also 1915, p. 1514 (*Capital City Planning Commission*) now General Laws, Act 3805. †1917, ch. 734, p. 1419; now General Laws, Act 431.

CONNECTICUT. Many cities and towns have provisions in their charters or are empowered by special statutes to appoint commissions; as, for instance, *Hartford*, 15 Special Laws, p. 43 (1907 No. 61) amended 15 Special Laws, p. 634 (1909 No. 34) sec. 6 and p. 661 (No. 74), where the first permanent official commission in this country was created; also *New Haven*, 16 Special Laws, p. 897 (1913 No. 243); *New London*, 16 ib. p. 1035 (1913 No. 351.) Especially interesting are *Windsor*, 17 Special Laws, p. 827 (1917 No. 133) and *Bloomfield*, 17 Special Laws, p. 831 (1917 No. 134), with relation to which see p. of this pamphlet. Any town, city or borough in this state is now empowered to create such a commission. 1921, ch. 30. See also Revised Statutes, 1918, secs. 391-396.

GEORGIA, ATLANTA. †1921, p. 665.

ILLINOIS. †1921, p. 260, being Smith's Revised Statutes, ch. 24, secs. 71-73.

INDIANA. *†1921, p. 561, being Burns, 1921 Suppt., secs. 8657-c-8657-p.†1921, p. 660, being Burns, 1921 Suppt., secs. 8655a-8655g.

KANSAS. *1st Class cities over 200,000*. 1921, ch. 99; †1921, ch. 100.

KENTUCKY. 1922.

MASSACHUSETTS. General Laws, 1921, ch. 41, secs. 70-72, 73-81; ch. 45, sec. 2.

MICHIGAN. 1921, No. 348, amended 1921, 2nd extra session, No. 5 (f). (Home Rule). †1921, No. 207. *Detroit*. *††Charter, ch. X (1919.)

MINNESOTA. *First Class Cities*. †1921, ch. 217, p. 267. *††*Certain First Class Cities*. 1919, ch. 292, p. 300. Under Art IV, Sec. 36 of the Constitution, cities and villages are also given the right to frame and amend their own charters, and therefore to adopt plans and appoint planning commissions.

MISSOURI. *Cities, 200,000 - 600,000*. †1921, p. 177.

NEBRASKA. †1915, ch. 213; amended 1919, ch. 185. *Metropolitan Cities*. †1919, ch. 185.

NEW JERSEY. *First Class Cities*. P. L. 1911, p. 103, ch. 71. †1917, p. 94, ch. 54. *P. L. 1913, p. 112, ch. 72. *First and Second Class Cities*. †P. L. 1918, p. 338, ch. 146, †1920, p. 436, ch. 229, †1920, p. 496, ch. 274. †1922, p. 309, ch. 181. *Second Class Cities*. *P. L. 1913, p. 281, ch. 170. *Third and Fourth Class Cities, Boroughs, etc.*, *P. L. 1915, p. 350, ch. 188, amended P. L. 1916, p. 377, ch. 175; P. L. 1920, p. 414, ch. 216; P. L. 1921, p. 695, ch. 218. †1921, p. 816, ch. 276. *Boroughs*, †P. L. 1922, p. 601, ch. 279. *Counties*. P. L. 1918, p. 567, ch. 185. Art XVI. *Port Authority*. P. L. 1921, pp. 412, 423, chs. 151, 152; P. L. 1922, p. 25, ch. 9 (approved Feb. 25th.) The plan was approved by the U. S. Congress, Aug. 23, 1921. See also P. L. 1922, p. 191, ch. 104.

NEW YORK. 1913, ch. 699, being art 12-A of General Municipal Law, amended 1920, ch. 377; 1921, ch. 464. *Syracuse*, 1920, ch. 447; amended by 1922, ch. 544. *Rochester*, 1917, ch. 505. *Westchester County*, 1915, ch. 109; *Towns in Westchester County*, 1922, ch. 322, adding subd. 18 to sec. 142-a, Town Law. *Port Authority*, 1921, chs. 154, 203; 1922, ch. 43. The plan was approved by the U. S. Congress August 23, 1921.

OHIO. *Laws 106 v. 455 (1915) being *Code, secs. 4366, 1-6; amended †1919, 108 v. 1175, adding to Code, secs. 4366-7 to 4366-12. *Cleveland*. *Charter, sec. 77. Municipalities are also by home rule provisions, authorized to frame their own charters, and thus obtain power to adopt maps, appoint planning commissions, etc.

OREGON. *Portland*. *1919, ch. 311, now *Laws 1920, secs. 3862-3872; †1919, ch. 300, now Laws 1920, secs. 3873-3878.

PENNSYLVANIA. *First Class Cities*. 1919, June 25, P. L. 581, sec. 10, being Pa. St. 1920, sec. 2985. *Second Class Cities*. 1911, June 10; P. L. 872, being Pa. St. 1920, secs. 3723-3727 amended 1921, May 17; P. L. 841. †1919, June 21, P. L. 570, being Pa. St., secs. 3893-3896. *Third Class Cities*. 1913, July 16; P. L. 752, being Pa. St. 1920, secs. 4379-4384. *Metropolitan District*, 1913, May 23; P. L. 339 (repealed in 1915, abolishing the Commission.)

SOUTH CAROLINA. *Spartanburg*. †1921, No. 417.

VERMONT. 1921, No. 107.

WISCONSIN. *1909, ch. 162, amended 1917, ch. 404, now Statutes, 1921, sec. 62, 23 subd. (1)-(3). *Cities*. †1917, ch. 404, being Statutes, 1921, sec. 62, 23 subd. 5, 6.

IV. ART COMMISSIONS

Except as otherwise noted, the commissions created by the laws given below are municipal commissions. To this list should be added the laws creating commissions with both planning and art regulation powers, for which see table III *ante*.¹

ALABAMA. *State and Local*. General Acts, 1919, p. 880 (No. 636.)

ARKANSAS. *State*. Digest, 1921, ch. 21 (sec. 830.)

CONNECTICUT. *State*. General Statutes, 1918, ch. 114, secs. 2186-2192. *New Haven*, 14 Special Laws, p. 728 (1905, No. 294.)

DISTRICT OF COLUMBIA. See United States.

¹The text of a number of art commission laws and statutes will be found in *Laws relating to Art Commissions*, printed for the Art Commission of the City of New York, May, 1914.

ILLINOIS. *State*, 1909, p. 96; now Smith's Revised Statutes, 1921, ch. 127, sec. 6, 50. *Municipal*, 1899, p. 89; amended 1915, p. 260; now Smith's Revised Statutes, 1921, ch. 24, sec. 622-629; *Chicago*, Code (Callaghan and Co., 1911), secs. 121-122.

MASSACHUSETTS. *State*, General Laws, 1921, ch. 6, secs. 19-20. *Cities and Towns*, ib. ch. 41, secs. 82-84. *Boston*, 1898, ch. 410.

MINNESOTA. General Statutes, 1913, sec. 1611.

NEW YORK. *Cities of First and Second Class*, 1900, ch. 327, secs. 120, 122, being General City Law, former Art. 8, renumbered (1911, ch. 718) Art. XI-A (secs. 165-167.) *New York City*, Charter, secs. 633-639. *Mount Vernon*, 1909, ch. 552.

OHIO. General Code, 1910, secs. 4343-4345.

PENNSYLVANIA. *State and Local*, 1919, May 1; P. L. 103, being Pa. St. 1920, West Publ. Co., secs. 17571-17578. *First class Cities*, 1919, June 25; P. L. 581, Art. II, sec. 11, being Pa. St. 1920, secs. 2986-2991. *Second Class Cities*, 1911, May 12; P. L. 291, being Pa. St. 1920, secs. 3720-3722.

UNITED STATES, D. C. AND NATIONAL. Act of May 17, 1900, 36 Stat. L. 371, ch. 243.

VIRGINIA. *State*, Code, 1919, ch. 31 (sec. 581-585.)

WISCONSIN. *Cities of First Class* (Milwaukee), 1911, ch. 318, amended by 1915, ch. 217.

V. STATE PLANNING

A State planning department has been established in Pennsylvania, under 1919, April 4, P. L. 45. The Immigration and Housing Commission of California (1917, ch. 740, p. 1514, now General Laws, Act 1589, sec. 15-17) and the Department of Public Welfare of Massachusetts (General Laws, 1921, ch. 121, Secs. 23, 26, 27, formerly the Homestead Commission) collect and disseminate planning information. In Massachusetts there is also Federation of Planning Boards. For an account of the planning activities of the National Government, see p. , note.

APPENDIX B

TEXT OF SELECTED STATUTES

1. CITY AND STATE PLANS

1. *Pennsylvania General Plan Act*¹

SEC. 9. Every municipal corporation shall have power to open, widen, straighten or extend streets or alleys or parts thereof within its limits and to vacate street or alleys or parts thereof . . . The widening or straightening ordinances shall fix the new line or lines and may require that thereafter no owner or builder shall erect any new building or rebuild or alter the front of any building already erected without making it conform to the new lines in which case the land owners' right of action shall accrue only when the said municipal corporation actually enters on and occupies the land within the said lines or the said building is located or relocated to conform to said lines.

SEC. 12. Every municipality shall have a general plan of its streets and alleys, parks and playgrounds, including those which have been or may be laid out, but not opened; which plan shall be filed in the office of the engineer or other proper office of the municipality, and all subdivisions of property thereafter made shall conform thereto. The location of streets or alleys, or parts thereof, or parks or playgrounds, laid out and confirmed by authority of councils, shall not afterwards be altered without the consent of councils; and no map or plot of streets or alleys or parks or playgrounds, shall be entered or recorded in any public office of the county in which said municipality is situated until approved by councils. No person shall hereafter be entitled to recover any damages

¹ 1921, No. 59, amended, 1913, No. 430, and 1921, No. 295; see also 1871, No. 1258 (p. 1553, which applies only to Philadelphia.)

for the taking for public use of any buildings or improvements of any kind which may be placed or constructed upon or within the lines of any located street or alley, or park or playground, after the same shall have been located or ordained by councils.

2. *Pennsylvania State Highway Act*¹

SEC. 8. The State Highway Commissioner shall also have power, with the approval of the Governor, to establish the width and lines of any State Highway before or after the construction, reconstruction, or improvement of the same, not, however, exceeding the maximum width fixed by law for public roads. Whenever the State Highway Commissioner shall establish the width and lines of any such State Highway, he shall cause a description and plan thereof to be made, showing the center line of said highway and the established width thereof, and shall attach thereto his acknowledgment. Thereupon such description, plan, and acknowledgment shall be recorded in the office of the recorder of deeds of the proper county in a separate book kept for such purposes, which shall be furnished to the recorder of deeds by the county commissioners at the expense of the county.

No owner or occupier of lands, buildings, or improvements shall erect any building or make any improvements within the limits of any State Highway the width and lines of which have been established and recorded as provided in this section, and, if any such erection or improvement shall be made, no allowance shall be had therefor by the assessment of damages.

¹ 1921, No. 62, amending 1911, No. 468.

3. *Pennsylvania State Planning Bureau*¹

SEC. 1. Be it enacted, etc., That the Secretary of Internal Affairs shall establish in the said Department of Internal Affairs a Bureau of Municipalities. The said bureau shall gather, classify, index, make available, and disseminate data, statistical information, and advice that may be helpful in improving the methods of administration and municipal development in the several municipalities of the commonwealth; and shall maintain, for the benefit of the municipalities, a publicity service to install or assist in the installation and establishment of modern systems of accounting in the various municipalities of the state, and in order to promote a comprehensive plan or series of plans for the probable future requirements of cities, boroughs or townships of the commonwealth, either separately or jointly, in respect to a system of traffic thoroughfares and other highways or main highways, transportation of every sort, suitably coordinated sites for public buildings, parks, parkways, playgrounds, and other public uses, the preservation of natural and historic features, and any and all public improvements tending to the advantage of municipalities or townships affected, tending to their advantage as a place of business and residence, and to either make or secure or assist in making or securing the necessary surveys, plans, and information.

SEC. 2. The Secretary of Internal Affairs is hereby authorized to employ a Chief of Bureau of Municipalities, who, in his judgment shall be qualified to perform the duties herein described. He is also authorized to employ such engineering, accounting, clerical, stenographic, and other expert service, relating to the gathering of information, its distribution and publication and other duties incident to the purpose of the bureau, or transfer to such duties in this bureau as he may find advisable the work and services of other bureaus or of others employed in the Department. The salaries of the employees appointed under the provisions of this act shall be fixed by the Secretary of Internal Affairs, and shall be paid from the funds appropriated to the said Department of Internal Affairs.

SEC. 3. It is hereby made the duty of every city, borough, township, or county official, to furnish such information as may be requested by the Chief of the Bureau of Municipalities or his duly authorized deputy.

SEC. 4. The act, approved the first day of June, one thousand nine hundred and fifteen (Pamphlet Laws, six hundred and eighty-nine), entitled "An act creating a division of Municipal Statistics and Information in the Department of Labor and Industry, and fixing the compensation of officers and employes therein," as amended by the act of July nineteenth, nineteen hundred and seventeen (Pamphlet Laws, one thousand one hundred and eleven) is hereby repealed.

SEC. 5. This act shall become effective on the sixth day of May, Anno Domini nineteen hundred and nineteen.

Approved April 4, 1919.

II. MUNICIPAL COMMISSIONS

1. *Minnesota Planning Act*²

SEC. 1. *City planning department for Minneapolis; commission and membership.* That an additional executive department in the government of cities of the first class not organized under section 36 of article IV of the state constitution shall be created to be known as the "city planning department" which shall be in charge of a city planning commission, consisting of nine persons. One shall be the mayor of the municipality; the city council, the school board, the park board and the county board of the county in which the municipality is situated shall each select one of its own members, as a member of the commission, in January of each odd numbered year; and four legal voters of the municipality not members of any of the above bodies or boards shall be appointed by the mayor with consent of the city council of the municipality. The first appointments shall be made as soon as practicable after the passage of this act.

The appointed members of the commission shall serve for four years. The first members first appointed by the mayor shall so classify themselves by lot that one of the number shall go out of office at the end of January of the odd year next after their appointment; one at the end of one year thereafter, and one at the end of two years thereafter; and shall certify the result of the classification to the city clerk. Vacancies for any unexpired term shall be filled by appointment as in the first instance.

The members of the commission shall serve without compensation, but the commission may with the consent of the city council employ engineers or other persons and incur such other expenses as are deemed necessary.

The commission shall make and alter rules and regulations for its own organization and procedure. It shall make an annual report to the city council.

The term "city council" means the principal governing body of the municipality.

SEC. 2. *Powers of commission.* The city planning commission shall have power, except as otherwise provided by law:

1. To acquire or prepare a comprehensive city plan for the future physical development and improvement of the city, based primarily upon public utility, convenience and general welfare, which plan shall be known and designated as the official city plan.

2. To prepare and recommend to the proper officers of the municipality, specific plans for public improvements consistent with the comprehensive plan for the city.

¹ 1919, No. 34.

² 1919, ch. 292.

3. To recommend to the city council of the municipality, ordinances regulating the height, location and ground areas of buildings and structures, and ordinances providing for the division of the city into districts or zones based upon the height, ground areas and use of all buildings and structures.

SEC. 3. *City council may grant certain powers.* The city council of the municipality may pass ordinances authorizing the city planning department to administer and enforce ordinances relative to city planning.

SEC. 4. *Commission to approve public improvements contemplated.* No public improvements shall be authorized to be constructed in the municipality until the location and design of the same have been approved by the city planning commission, provided in case of disapproval the commission shall communicate its reasons to the city council, or other governing body which has control of the construction of the proposed improvement; and the majority vote of such body shall be sufficient to over-rule such disapproval. If the reasons for disapproval are not given to the city council or other governing body within thirty days after the plans for the public improvements are submitted to the city planning commission, said plan shall be deemed to be approved by the city planning commission, provided that the term "public improvement" shall as herein used include "works of art" as defined in chapter 154, General Laws 1901.

SEC. 5. *Plans, plats, etc., to be submitted to commission for approval or rejection.* All plans, plats, or replats, of land hereafter laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon, or adjacent thereto, and located within the city limits, shall be submitted to the city planning commission for its approval; and it shall be unlawful to receive or record such plans in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the city planning commission. The disapproval of such plan, plats or replats, by the city planning commission, shall be deemed a refusal by the city of the proposed dedication shown thereon. The approval of the commission shall be deemed an acceptance by the city of the proposed dedication; but shall not impose any duty upon the city concerning the maintenance or improvements of any such dedicated parts, until the proper authorities of the city shall have made actual appropriations of the same by entry, use or improvements.

The duty of the city planning commission in accepting or rejecting a plat shall be deemed legislative and discretionary and not administrative.

SEC. 6. This act shall take effect and be in force from and after the date of its passage and approval.

Approved April 17, 1919.

2. *New Jersey Plan and Art Commission Act*¹

1. This act may be referred to as the "Municipal Plan and Art Commission Act." It shall apply to all third class cities, fourth class cities, boroughs, towns, townships and incorporated villages of this State (and only to those) which shall accept the provisions of this act as herein after stated.

2. Any municipality mentioned in section one of this act may be a majority vote of the mayor and common council, or other similar governing body of whatsoever name called, authorize the appointment of a municipal plan and art commission for such municipality. Such commission shall consist of six men, all of whom shall reside in said municipality, and one of whom may be a member of the common council or other similar governing body of the municipality. The commissioners shall be appointed by the mayor or other head of the municipality, with the advice and consent of the council or other similar governing body, as the case may be. Each commissioner shall be appointed for a term of six years, except that when the commission shall be first created, one commissioner shall be appointed for a term of six years, one for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year, except also, in case of any vacancy occurring in said commission, the vacancy shall be filled for the balance of the unexpired term in each instance as it arises; to the end that such commission shall be maintained as a continuing body with normally one commissioner to be nominated by the mayor and confirmed by the council in each year. In every municipality in which a municipal plan and art commission shall be appointed under the provisions of this act, the mayor or other executive head of such municipality shall also be *ex-officio* a member of such commission during his term of office.

3. After January first, one thousand nine hundred and sixteen, in every municipality mentioned in section one of this act which shall not have constituted a municipal plan and art commission in the manner prescribed in section two of this act, legal voters residing therein in number equaling or exceeding twenty per centum of the votes cast in the last preceding election for municipal officers may, by petition addressed to the clerk of the county in which such municipality is located, call an election of the legal voters of such municipality to vote on the question as to whether such municipality shall have a municipal plan and art commission under the provisions of this act. Such petition, with the execution thereof proven by the oath of one or more witnesses, shall be filed with said county clerk. The election shall be held at the same time as the next succeeding election of members of the General Assembly of the State of New Jersey, following the filing of said petition and by the same election officers. The ballot shall read as follows:

¹ 1915, ch. 188, as amended, 1920, ch. 216, and supplemented, 1916, ch. 175.

	For the appointment of a Municipal Plan and Art Commission to serve without pay.
	Against the appointment of a Municipal Plan and Art Commission to serve without pay.

and shall be printed on and as a part of the regular official ballot. If a cross mark shall be placed in the square opposite the words "For the appointment of a Municipal Plan and Art Commission, to serve without pay," the vote shall be recorded as in favor of the proposition. If a cross mark shall be placed in the square opposite the words "Against the appointment of a Municipal Plan and Art Commission, to serve without pay," the vote shall be regarded as against the proposition. The result of such election shall be declared by a certificate or certificates signed by the election officers conducting such election and within three days after such election, such certificate or certificates shall be filed with said county clerk, and a duplicate of such certificate or certificates shall within said three days also be filed with the mayor or other head of the governing body of the municipality. If the majority of the votes cast at any election on the question of appointing a commission under the provisions of this act shall be in favor of the appointment of a municipal plan and art commission, such municipal plan and art commission shall be appointed by the mayor or other head of the municipality, with the advice and consent of the council or other similar body in such municipality, within sixty days after the date of such election.

4. Between December fifteenth and December thirty-first in each year, every such commission appointed under the provisions of this act shall prepare and deliver to the mayor and council or other head of the municipality in which such commission exists, an itemized statement of the amount of money, if any, estimated to be necessary for the work of said commission for the coming calendar year from January first to December thirty-first inclusive, which statement shall be for the information of the mayor and council or other governing body of the municipality, which governing body in its discretion may appropriate in the same manner as other appropriations are made, the amount of such estimate or any portion thereof, and the amount so appropriated shall be assessed, levied and collected in the same manner as moneys appropriated for other purposes in such municipality shall be assessed, levied and collected.

5. All questions concerning the location or acceptance of any public place, playground, parkway, street, avenue, highway, common, boulevard, square, park, or of the design, acceptance or location of any bridge, viaduct, street or park fixtures or structures, or any public build-

ing (including public library) or works of art, proposed to be erected either wholly or partly by public or private funds, for the benefit of the public in such municipality, shall be referred to such commission by the mayor and council or other similar governing body of such municipality for consideration and report before final action shall be taken thereon by the mayor and council or other similar governing body. If no report shall be made by said commission within sixty days after the receipt of such reference by the commission, the mayor and council or other similar governing body, may proceed without a report, as if this law had not been enacted. If a report shall be made by the commission, action by the mayor and council or other similar governing body in harmony with the recommendations of such report, may be taken by a majority vote, but no action by the mayor and council or other similar governing body adverse to the recommendations of such report shall be valid, unless such action shall be taken by a two-thirds vote of the mayor and council or other similar governing body.

The term "works of art" as used in this section, shall apply to and include all monuments, fountains, mural decorations, sculptures, and all structures of a permanent character intended for ornament or commemoration.

This act shall take effect immediately.

Approved April 6, 1915.

The above act has been amended by adding the following:¹

1. When any municipal plan and art commission appointed under the terms of the act to which this is a supplement determines in its judgment that it is advisable and for the best interests of the city, borough or other municipality in which it is appointed, to prepare plans for the systematic and further development and betterment of such municipality, it shall then be the duty of such municipal plan and art commission to prepare such plans, and in doing so the said municipal plan and art commission may consider and investigate any subject matter tending to the development and betterment of such municipality and make such recommendations as it may deem advisable concerning its government and for any purpose make or cause to be made surveys, plans or maps. It shall have the power and authority to employ experts and clerks and to pay for their services, and to pay for such other expenses as such commission may lawfully incur under the powers hereby granted, including the necessary disbursements incurred by its members in the performance of their duties as members of said commission, provided such disbursements shall have been authorized by such commission; and further provided, that the total amount so expended for all purposes in any one year shall not exceed the appropriation for such year as heretofore provided.

2. This act shall take effect immediately.

Approved March 17, 1916.

¹ 1916, ch. 175.

3. *New York Planning Act*¹

SEC. 1. The general municipal law is hereby amended by adding thereto a new article to be numbered twelve-a, to be entitled city and village planning commissions, and to read as follows:

ARTICLE 12-a

City and Village Planning Commission

SEC. 234. Creation, Appointment and Qualifications.

- 235. Officers, Expenses and Assistance.
- 236. General Powers.
- 237. Maps and Recommendations.
- 238. Private Streets.
- 239. Rules.
- 239-a. Construction of Article.

SEC. 234. *Creation, appointment and qualifications.* Each city and incorporated village is hereby authorized and empowered to create a commission to be known as the city or village planning commission. Such commission shall be so created in incorporated villages by resolution of the trustees, in cities by ordinance of the common council, except that in cities of the first class, having more than a million inhabitants, it shall be by resolution of the board of estimate and apportionment or other similar local authority. In cities of the first class such commission shall consist of not more than eleven, in cities of the second class of not more than nine, in cities of the third class and incorporated villages of not more than seven members. Such ordinance or resolution shall specify the public officer or body of said municipality that shall appoint such commissioners, and shall provide that the appointment of as nearly as possible one-third of them shall be for a term of one year, one-third for a term of two years, and one-third for a term of three years and that at the expiration of such terms, the terms of office of their successors shall be three years; so that the term of office of one-third of such commissioners, as nearly as possible, shall expire each year. All appointments to fill vacancies shall be for the unexpired term. Not more than one-third of the members of said commission shall hold any other public office in said city or village. In a county containing a population of over three hundred thousand, and adjoining a city of the first class, one of the members of such commission may reside outside of such village.

SEC. 235. *Officers, Expenses and Assistance.* The commission shall elect annually a chairman from its own members. It shall have the power and authority to employ experts, clerks, and a secretary, and to pay for their services and such other expenses as may be necessary and proper, not exceeding in all the annual appropriation that may be made by said city or village for said commission. The body creating the commission shall by ordinance or resolution provide what compensation, if any, each of such commissioners shall receive for his services as such commissioner. Each city and incorporated village is

hereby authorized and empowered to make such appropriation as it may see fit for such expenses and compensation, such appropriations to be made by those officers or bodies in such city or village having charge of the appropriation of the public funds.

SEC. 236. *General Powers.* The body creating such planning commission may, at any time by ordinance or resolution, provide that the following matters, or any one or more of them, shall be referred for report thereon, to such commission by the board, commission, commissioner or other public officer or officers of said city or village which is the final authority thereon before final action thereon by such authority: the adoption of any map or plan of said city or incorporated village, or part thereof, including drainage and sewer or water system plans or maps, and plans or maps for any public water front, or marginal street, or public structure upon, in or in connection with such front or street, or for any dredging, filling or fixing of lines with relation to said front; any change of any such maps or plans; the location of any public structure upon, in or in connection with, or fixing lines with relation to said front; the location of any public building, bridge, statue or monument, highway, park, parkway, square, playground or recreation ground, or public open place of said city or village. In default of any such ordinance or resolution all of said matters shall be so referred to said planning commission.

The body creating such planning commission may, at any time, by ordinance or resolution, fix the time within which such planning commission shall report upon any matter or class of matters to be referred to it, with or without the further provision that in default of report within the time so fixed, the planning commission shall forfeit the right further to suspend action, as aforesaid with regard to the particular matter upon which it has so defaulted. In default of any such ordinance or resolution, no such action shall be taken until such report is so received, and no adoption, change, fixing or location as aforesaid by said final authority, prior thereto, shall be valid. No ordinance or resolution shall deprive said planning commission of its right or relieve it of its duty, to report, at such time as it deems proper upon any matter at any time referred to it.

This section shall not be construed as intended to limit or impair the power of any art commission, park commission or commissioner, now or hereafter existing by virtue of any provision of law, to refuse consent to the acceptance by any municipality of the gift of any work of art to said municipality, without reference of the matter, by reason of its proposed location or otherwise, to said planning commission. Nor shall this section be construed as intended to limit or impair any other power of any such art commission or affect the same, except in so far as it provides for reference or report, or both, on any matter before final action thereon by said art commission.

SEC. 237. *Maps and Recommendations.* Such planning commission may cause to be made

¹ 1913, ch. 699. Amended, 1920, ch. 377.

a map or maps of said city or village or any portion thereof, or of any land outside the limits of said city or village so near or so related thereto that in the opinion of said planning commission it should be so mapped. Such plans may show not only such matters as by law have been or may be referred to the planning commission, but also any and all matters and things with relation to the plan of said city or village which to said planning commission seem necessary and proper. Including recommendations and changes suggested by it and any report at any time made, may include any of the above. Such planning commission may obtain expert assistance in the making of any such maps or reports, or in the investigations necessary and proper with relation thereto.

SEC. 238. *Private Streets.* The body creating such planning commission may at any time, by ordinance or resolution provide that no plan, plot or description, showing the layout of any highway or street upon private property, or of building lots in connection with or in relation to such highway or street shall, within the limits of any municipality having a planning commission, as aforesaid, be received for record in the office of the clerk of the county where such real property is situated, until a copy of said plan, plot or description has been filed with said commission and it has certified, with relation thereto, its approval thereof. Such certificate shall be recorded as a part of the record of said original instrument containing said plan, plot or description. No such street or highway which has not received the approval of the planning commission shall be accepted by said city or village until the matter has been referred to such commission under the provision of section two hundred and thirty-six of this article. But if any such street is plotted or laid out in accordance with the map of said municipality, adopted according to law, then it shall not be necessary to file such copy, or obtain or record such certificate.

SEC. 239. *Rules.* Such commission may make rules not contrary to law, to govern its action in carrying out the provisions of this article.

SEC. 239-a. *Construction of Article.* This article shall be construed as the grant of additional power and authority to cities and incorporated villages, and not as intended to limit or impair any existing power or authority of any city or village.

Any city or incorporated village in order to appoint a planning commission under this article shall recite, in the ordinance or resolution so creating the commission, the fact that it is created under this article.

SEC. 2. This act shall take effect immediately.

4. *The New York City Art Commission Law*

Art Commission. Charter, Title 2

SEC. 633. Art commission; how constituted.

634. Members of commission, how chosen; vacancies.

635. Officers.

636. Offices to be provided; expenses, how met.

637. All works of art to be submitted to and approved by the commission.

638. Time for decision limited.

639. Removal or relocation of works of art; duty of commission.

Art Commission; How Constituted

SEC. 633. There shall be an Art Commission of the City of New York, composed as follows:

1. The mayor of the city of New York, ex-officio.

2. The president of the Metropolitan Museum of Art, ex-officio.

3. The president of the New York Public Library (Astor, Lenox and Tilden Foundations), ex-officio.

4. The president of the Brooklyn Institute of Arts and Sciences, ex-officio.

One painter, one sculptor and one architect, all residents of the city of New York; and three other residents of said city, none of whom shall be a painter, sculptor or architect or member of any other profession in the fine arts. All of the six last mentioned shall be appointed by the mayor from a list, of not less than three times the number to be appointed, proposed by the fine arts federation of New York. In all matters of which such commission takes cognizance pertaining to work under the special charge of a commissioner or department, the commissioner having such special charge shall act as a member of the commission. Each of the aforesaid presidents may appoint a trustee of the institution or corporation of which he is president to serve in his place as ex-officio member of said commission. Such appointment shall be in writing and shall be revocable at any time by such president. It shall terminate whenever he ceases to be president. Until the appointment be so revoked or terminated, any trustee so appointed shall be an ex-officio member of said commission with like powers and duties as the president who has appointed him.

Members of Commission; How Chosen; Vacancies

SEC. 634. The painter, sculptor and architect, members of the commission, shall choose by lot one, two, and three year terms of office; the three other appointed members of the commission shall also choose by lot one, two and three year terms of office, and the appointment of their successors, after the expiration of the first year of this commission, shall be for a term of three years. All appointments to fill vacancies shall be for the unexpired term. In case any vacancy shall occur in the commission, by reason of death, resignation, incapacity, refusal to serve, or otherwise, the vacancy shall be filled by appointment, as provided in section six hundred and thirty-three of this act. In case the Fine Arts Federation shall fail to present a list of nominees as aforesaid within three months from the time when any appointment is

to be made, the mayor shall appoint without such nomination.

Officers

SEC. 635. The commission shall serve without compensation as such, and shall elect a president, vice-president and secretary from its own members, whose terms of office shall be for one year and until their successors are elected and have qualified. The commission shall have power to adopt its own rules of procedure. Five commissioners shall constitute a quorum.

Offices to be Provided; Expenses, How Met

SEC. 636. Suitable offices shall be provided for the commission by the board of estimate and apportionment. The expenses of the commission shall be paid by the city; and the amount of the same shall be fixed annually by the board of estimate and apportionment and the board of aldermen.

All Works of Art to be Submitted to and Approved by the Commission

SEC. 637. Hereafter no work of art shall become the property of the city of New York, by purchase, gift or otherwise, unless such work of art or a design of the same, together with the proposed location of such work of art, shall first have been submitted to and approved by the commission; nor shall such work of art until approved be contracted for, erected or placed in or upon, or allowed to extend over or upon any street, avenue, square, common, park, public building, or other public place belonging to the city. The commission may, when they deem proper, also require a complete model of the proposed work of art to be submitted. The term "work of art" as used in this title shall apply to and include all paintings, mural decorations, stained glass, statues, bas-reliefs or other sculptures; monuments, fountains, arches, or other structures of a permanent character intended for ornament or commemoration. No existing work of art in the possession of the city shall be removed, relocated or altered in any way without the similar approval of the commission, except as provided in section six hundred and thirty-nine of this act. The commission shall act in a similar capacity, with similar powers, in respect to the designs of buildings, bridges, approaches, gates, fences, lamps or other structures erected or to be erected upon land belonging to the city, and in respect to the lines, grades and plotting of public ways and grounds and in respect of arches, bridges, structures and approaches which are the property of any corporation or private individual, and which shall extend over or upon any street, avenue, highway, park or public place belonging to the city, and said commission shall so act and its approval shall be required for every such structure which shall hereafter be erected or contracted for; except that in case of any such structure which shall hereafter be erected or contracted for at a total expense not exceeding two hundred and fifty thousand dollars, the approval of said commission shall not be required, if the mayor or the board of aldermen shall request said commission not to act. But this section

shall not be construed as intended to impair the power of the park board to refuse its consent to the erection or acceptance of public monuments or memorials or other works of any sort within any park, square or public place in the city.

Time for Decision Limited

SEC. 638. If the commission shall fail to decide upon any matter submitted to it within sixty days after such submission, its decision shall be deemed unnecessary.

Removal or Relocation of Works of Art; Duty of Commission

SEC. 639. In case the immediate removal or relocation of any existing work of art shall be deemed necessary by the mayor, the commission shall within forty-eight hours after notice from him approve or disapprove of such removal or relocation, and in case of their failure to so act within forty-eight hours after the receipt of such notice, they shall be deemed to have approved the same.

5. *Ohio. Planning Provisions of Charter and Ordinances of Cleveland*

Charter of City of Cleveland

SEC. 77. There shall be a city plan commission to be appointed by the mayor with power to control, in the manner provided by ordinance, the design and location of works of art which are, or may become, the property of the city; the plan, design and location of public buildings, harbors, bridges, viaducts, street fixtures and other structures and appurtenances; the removal, relocation and alteration of any such works belonging to the city; the location, extension and platting of streets, parks and other public places, and of new areas; and the preparation of plans for the future physical development and improvement of the city.

Ordinance of City of Cleveland

SEC. 4. Hereafter no public building, harbor, bridge, viaduct, street fixture, or other structure or appurtenance shall be located, constructed, erected, renewed, relocated, or altered until and unless such plan, design or location shall have been submitted to and approved by the commission; and no such work when completed shall be accepted by the city until and unless it shall have been approved by the commission as provided in sec. 77 of the City Charter.

6. *Pennsylvania. Planning Act for Third Class Cities*¹

SEC. 5. All plans, plots, or replots of lands laid out in building lots, and the streets, alleys, or other portions of the same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, and located within the city limits of a city of the third class or for a distance of three miles outside thereof, shall be submitted to the city planning commission and

approved by it before it shall be recorded. And it shall be unlawful to receive or record such plan in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the city planning commission. The disapproval of any such plans by the city planning commission shall be deemed a refusal of the proposed dedication shown thereon. The approval of the commission shall be deemed an acceptance of the proposed dedication; but shall not impose any duty upon the city concerning the maintenance or improvement of any such dedicated parts, until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvement. No sewer, water, or gas-main, or pipes, or other improvement, shall be voted or made within the area under the jurisdiction of said commission, for the use of any such purchasers or owners; nor shall any permit for connection with or other use of any such improvement existing, or for any other reason made, be given to any such purchasers or owners until such plan is so approved. Where the jurisdictional limit of three miles outside of the city limits, as provided in this section, may conflict with the zone of similar character connected with another city of the third class, the jurisdiction of said commission shall extend only to the point equidistant between the city limits and the limits of said municipality.

Approved the 16th day of July, A. D. 1913.

III. METROPOLITAN COMMISSIONS

SEC. 1. The governor, by and with the consent of the council, shall appoint three persons, and the mayor of Boston shall appoint two persons, who shall constitute a board to be known as the Metropolitan Planning Board. The members of said board shall hold office for terms of five years each beginning with the first Monday in May in the year nineteen hundred and twelve. Upon the expiration of the terms of the members so first appointed the governor shall appoint three members, one to serve for five years, one for three years and one for one year, and the mayor shall appoint two members, one to serve for four years and one for two years. Thereafter the respective appointments by the governor and mayor shall be for terms of five years. The governor shall appoint the chairman of the said board.

¹ 1913, No. 4c6.

² In 1911, Massachusetts (Acts and Resolves, ch. 84) caused an investigation to be made as to the desirability of appointing a planning commission for the Metropolitan District of Boston and its vicinity, a report of which was made to the legislature of the state in 1912 (House Report No. 1615.) That report recommended the appointment of such a commission and transmitted with its report a draft of an act (never passed) for that purpose, as above.

SEC. 2. The jurisdiction and powers of said board shall extend to and may be exercised in the cities of Boston, Cambridge, Chelsea, Everett, Lynn, Malden, Medford, Melrose, Newton, Quincy, Somerville, Waltham, and Woburn, and in the towns of Arlington, Belmont, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Hingham, Hull, Milton, Nahant, Needham, Revere, Saugus, Stoneham, Swampscott, Wakefield, Watertown, Wellesley, Weston, Westwood, Weymouth, Winchester, and Winthrop, and the said cities and towns together with any others that may be included by subsequent legislation shall constitute the metropolitan district within the meaning of this act.

SEC. 3. Except as hereinafter expressly provided nothing in this act shall be construed as affecting the powers now vested by law in any public authority.

SEC. 4. Duties and powers of the said board:

A. It shall be the duty of the said board to make or obtain surveys of the metropolitan district as herein defined, and for the purpose of making such surveys it shall have the right to do all reasonable and necessary acts.

B. It shall be the duty of the said board to make a comprehensive plan or series of plans for the present and probable future requirements of the metropolitan district in respect to a system of traffic thoroughfares and other main highways, transportation facilities of every sort suitably co-ordinated, sites for public buildings, parks, playgrounds and other public uses, and any and all public improvements tending to the advantage of the metropolitan district as a place of business and of residence.

C. It shall be the duty of the said board to study and, in its discretion, it may recommend such legislation applicable to the metropolitan district as will facilitate the prevention and relief of congestion of population and of traffic, the better control of fire hazard, the better distribution of areas and of buildings for the purposes of residence, manufacturing, trade and transportation, the preservation of the natural and historic features of the district, the beautifying thereof, the co-ordination of transportation facilities, the best method of financing and assessing the cost of public improvements or any other matter relating to a co-ordinated civic development within the said metropolitan district.

D. It shall be the duty of the said board to examine and make public reports upon all plans directly affecting the metropolitan district or more than one city or town therein made under authority of law, and for the purpose of such examination it shall be the duty of any existing public authority before making any contract or agreement for the execution of plans of character aforesaid for any public improvements within the metropolitan district to inform the Metropolitan Planning Board as to such plans and give the said board reasonable opportunity for examining the same. The said reports may specifically approve or disapprove of said plans in whole or in part as the said board may by its examination determine, and shall state the rea-

sons for such approval or disapproval. Whenever it is possible and desirable to effect a co-ordination of the plans for improvements within the said metropolitan district of two or more agencies, whether now existing or hereafter created and with local or general jurisdiction, it shall be the duty of the said board to seek to effect such a co-ordination.

E. If in the opinion of the said board any plan for a public improvement proposed for execution by the legally constituted authority in any county, city or town within the district conflicts with some existing or proposed public improvement of metropolitan character the board shall so inform the executive of the said county, city or town, whereupon the said county, city or town may abandon the proposed improvement, or shall execute the same in accordance with the plan of the said Metropolitan Planning Board, or shall postpone action upon the question of execution for not less than one year, after which such lawful action may be taken as the said county, city or town through its legally constituted authority may deem expedient.

F. The said board shall have the power when so requested by the authorities of any county, city or town within the said metropolitan district to furnish assistance for the making of plans or specifications or the supervision of the execution of public works at the cost of such assistance or supervision.

G. The board may place the question of the execution of any given metropolitan improvement within the limits of the metropolitan district before the government of each political unit in which such improvement is physically situated and before any succeeding government in its discretion. It shall present estimates of cost with any plans for improvements whenever the question of execution is placed before public authorities. Every proposed improvement or any part thereof when accepted by the government of the municipal unit in which it is situated, or by any other constituted authority having power to make such improvement, or part thereof, shall be executed by such government or authority whether now existing or hereafter created.

SEC. 5. The approval by the board of any plan or plans accepted by municipal authorities or boards of county commissioners or submitted to said Metropolitan Planning Board as hereinbefore provided, may in set terms designate and classify the improvements therein shown or any portion of them as ordinary or extraordinary metropolitan improvements. The cost of ordinary metropolitan improvements executed under the provisions of this act shall be paid as follows: sixty-five per cent by the municipality or municipalities in which the improvement is physically situated; twenty-five per cent by the remaining cities and towns constituting the said district in proportions determined by the commission appointed by the supreme judicial court as hereinafter provided and ten per cent by the commonwealth. The cost of extraordinary metropolitan improvements executed under the pro-

visions of this act shall be paid as follows: such proportion thereof, not exceeding sixty-five per cent, as may be determined by the said commission appointed by the supreme judicial court as aforesaid, by the municipality or municipalities in which the improvement is physically situated; such amount, not less than twenty-five per cent thereof, as may be determined by the aforesaid commission by the remaining cities and towns constituting the said district, in proportions determined as aforesaid and ten per cent by the commonwealth.

SEC. 6. To meet the cost of the improvements executed in accordance with the provisions of this act, the treasurer and receiver general shall upon application of the Metropolitan Planning Board, issue scrip or certificates of debt in the name and on behalf of the commonwealth and under its seal to the amount annually necessary for five years from the date of the first of such applications. In no one year shall the proportion to be paid by the commonwealth as its part in the expenses authorized by section five of this act exceed five hundred thousand dollars and the amount of scrip or certificates of debt issued in any one year as aforesaid shall be limited accordingly. All loans issued by the commonwealth in accordance herewith shall be serial loans and shall be made payable in annual instalments in the manner authorized by section thirteen of chapter twenty-seven of the Revised Laws as amended by section one of chapter three hundred and forty-one of the acts of the year nineteen hundred and eight. Such scrip or certificates of debt shall be designated on the face as the Metropolitan Planning Board Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, and the principal and interest shall be paid at the times specified therein in gold coin of the United States; and said scrip or certificates of debt shall be sold and disposed of at public auction or in such other mode and at such times and prices, and in such amounts and at such rates of interest as the governor and council shall deem best. Any premium realized on the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

SEC. 7. The supreme judicial court sitting in equity shall in the year nineteen hundred and twelve and every year thereafter on the application of the Metropolitan Planning Board, or of the attorney of any of the cities or towns in the metropolitan district, and after notice to each of said cities and towns, appoint three commissioners, neither of whom shall be a resident of any of said cities or towns, who shall, after such notice and hearing as they shall deem just and equitable, determine the proportions in which each of said cities and towns shall pay money into the treasury of the commonwealth for the year following that in which the application is made to meet the interest, serial loan requirements, expenses, including the expenses of administration, and cost for such year. Said commissions shall make such apportionment on or before the first day of March in each year.

The said commissioners shall determine the several amounts to be paid by the cities and towns of the metropolitan district other than those in which ordinary or extraordinary improvements are situated to the aggregate amount of twenty-five per cent of the total cost of improvements classified as ordinary. In the case of improvements classified as extraordinary, they shall also determine how far, if at all the proportion of the total cost of such improvements to be paid by the municipalities in which they are physically situated shall be reduced below sixty-five per cent and correspondingly increased as regards some or all of the remaining municipalities comprising the metropolitan district. The proportion to be ultimately payable by the commonwealth shall be ten per cent of the total cost whether for ordinary or extraordinary improvements. The amounts severally to be paid by the separate municipalities shall be apportioned by the said commissioners on the basis of benefit in each case and with due account of population, valuation and any other thing which, in the opinion of the said commission, should affect the said proportional contributions: *provided, however*, that nothing herein shall be construed to change the apportionment of the cost for public improvements to which the commonwealth already contributes under existing laws.¹

SEC. 8. Said board may appoint such office and technical assistants as it seems necessary to carry out the purposes of this act. It shall determine the duties and compensations of such appointees and remove them at pleasure. It shall be supplied with a suitable office or offices for its work and for its maps, plans, documents and records. The chairman of the said board shall receive a salary of ten thousand dollars a year and each of the other four members thereof shall receive a salary of one thousand dollars a year. The salaries of the commissioners and their appointees and the expenses of administration shall be paid from the treasury of the commonwealth and shall be thereafter assessed ninety per cent thereof upon the cities and towns of the metropolitan district as herein defined in proportions to be determined by a commission appointed by the supreme judicial court sitting in equity as hereinbefore provided and ten per cent by the commonwealth. On or before the second Wednesday of January in each year said board shall make a report in print of its proceedings to the general court together with a full statement of its receipts and disbursements, and the said board may make such additional reports in print or otherwise from time to time as it may deem expedient.

SEC. 9. The treasurer of the commonwealth shall in the year nineteen hundred and twelve and in each year thereafter estimate, in accord-

ance with the proportions determined and returned as aforesaid, the several amounts required during the year beginning with the first day of January from the cities and towns aforesaid, to meet said interest, serial loan requirements, salaries, expenses, including expenses of administration and cost for each year, and deficiency, if any, and shall include the amount required from a city or town in, and make it a part of, the sum to be paid by such city or town as its annual state tax and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment, and as a part of its state tax.

SEC. 10. This act shall take effect upon its passage so far as it affects the appointment of the members of the Metropolitan Planning Board and in all other respects this act shall take effect on the first day of _____, nineteen hundred and twelve.

2. Pennsylvania²

WHEREAS, The establishment of Suburban Metropolitan Planning Commissions having jurisdiction over territory adjacent to cities of the first class is desirable, in order to provide for its proper development by the co-operation of the various local governmental units in matters pertaining to their common welfare; and

WHEREAS, It is desirable, that there should be co-ordination of effort with Urban Metropolitan Planning Commissions, relating to cities of the first class themselves, wherever the same may exist:

SEC. 1. Be it enacted, etc., That in order to secure co-ordinated, comprehensive plans of highways and roads, parks and parkways, and all other means of inter-communication, water-supply, sewerage and sewage disposal, collection and disposal of garbage, housing, sanitation and health, playgrounds, civic centers, and other public improvements, as hereinafter provided for, the districts surrounding and within twenty-five miles of the limits of cities of the first class, whether in one or more counties, and in order to prevent waste by unnecessary duplication, the areas included within twenty-five miles of the limits of cities of the first class shall be denominated the Suburban Metropolitan Districts of cities of the first class of Pennsylvania. When any city, borough or township is partly within and partly without the twenty-five mile limit, the whole of such city, borough, or township shall be regarded as within the Suburban Metropolitan District.

SEC. 2. There shall be an executive department created for every Suburban Metropolitan District, to be known as the Department of Suburban Metropolitan Planning, which shall be in charge of a Suburban Metropolitan Planning Commission.

SEC. 3. The Suburban Metropolitan Planning Commission shall be appointed by the Governor of the State of Pennsylvania, and shall consist of fifteen members, who may or may not hold other public office, whether for profit or

¹A study of the apportionment of assessments according to benefits, between the city as a whole, the various boroughs of the city, and the land owners, will reveal some analogy between it and the apportionment here suggested. See Charter, sec. 972-973 (in New York City.)

² 1913, No. 226, repealed in 1915.

otherwise, of whom twelve shall be residents of the district involved, and three shall be residents of the said city of the first class, five members to be appointed to serve for one year, five for two years, five for three years; then, thereafter, each appointment to be for three years.

An appointment to fill a casual vacancy shall be for the unexpired portion of the term. Nine shall constitute a quorum.

The Suburban Metropolitan Planning Commission shall make and alter rules and regulations for its own organization and procedure, consistent with the laws of the Commonwealth. From its own members it shall choose a chairman and vice-chairman. Each member shall serve without compensation. On or before January tenth of each and every year, the commission shall make to the mayor of each city, to councils of each borough, to the commissioners of each first class township, and to the supervisors of each second class township, within the Suburban Metropolitan District, to the mayor of the said city of the first class, and to the Governor of the State of Pennsylvania, a report of its transactions and recommendations. The commission may employ a secretary, engineers, and other experts and persons, whose salaries and wages, as well as all the other necessary expenses of the commission and members thereof, shall be provided for as hereinafter set forth.

SEC. 4. The Suburban Metropolitan Planning Commission shall make, or cause to be made, and laid before the respective governmental authorities of the district, and, in its discretion, cause to be published, a map or maps of the entire district, or any portion or portions thereof, showing any or all systems of transportation, highways and roads, parks, parkways, water-supply, sewerage and sewage disposal, collection and disposal of garbage, housing, sanitation, playgrounds and civic centers, or of other natural physical features of the district; and it shall prepare plans for any new or enlarged facilities for intercommunication, parks, parkways, water-supply systems, sewers, sewage disposal, garbage disposal, land plottings and housing arrangements, playgrounds and civic centers, or any other public improvement that will affect the character of the district as a whole, or more than one political unit within the district, or any widening, extension or relocation of the same, or any change in the existing township or borough or city plans, by it deemed advisable. And it shall make recommendations to the respective governmental authorities from time to time, concerning any such matters or things aforesaid, for action by the respective legislative, administrative, or governmental bodies thereon; and in so doing have regard for the present conditions and future needs and growth of the district, and the distribution and relative location of all the principal and other streets, and railways, waterways, and all other means of public travel and business communications, as well as the distribution and relative location of all public buildings, public grounds, and open spaces devoted to public

use, and the planning, subdivision and laying out for urban uses of private grounds brought into the market from time to time.

SEC. 5. Any city, borough, or township, within any Suburban Metropolitan District, may request the Suburban Metropolitan Planning Commission of that district to prepare plans concerning any of the subjects set forth in section four of this act; whereupon it shall be the duty of the Commission to prepare such plans with dispatch.

SEC. 6. The Suburban Metropolitan Planning Commission may make recommendations to any public authorities or any corporation or individual in said districts, with reference to the location of any buildings and structures to be constructed by them.

SEC. 7. The plans so made and laid before the respective governmental authorities by the Suburban Metropolitan District Planning Commission, according to sections four, five and six, shall be considered by such respective authorities, and followed by them in so far as shall be determined by each authority: *provided, however*, that the provisions of this act shall not abridge or in any way affect the provisions of an act, entitled "An act creating a Department of Health and defining its powers and duties," approved the twenty-seventh day of April, Anno Domini, one thousand nine hundred and five; or the provisions of an act, entitled "An act to preserve the purity of the waters of the State for the protection of the public health," approved the twenty-second day of April, one thousand nine hundred and five.

SEC. 8. On or before January tenth of each and every year, the commission shall prepare an estimate of its expenses for the ensuing year, setting forth with as much detail as is practicable the items of which such estimate is composed; and shall cause the amount of its expenses so estimated, after deducting the cash on hand and the unpaid assessments, to be assessed against the cities, boroughs, and townships within the district, in proportion to their respective tax duplicates. The itemized estimate of expenses and a statement of the rate of assessment shall be spread upon the minutes of the Commission, which shall be kept open at all times for public inspection. Each and every assessment, when certified by the chairman and secretary of the commission, shall constitute a charge on the treasury of the respective city, borough, and township, and its immediate payment shall be at once provided for. The commission shall have power to secure payment of the assessment by suits of mandamus, or otherwise; *provided*, that the rate of assessment shall not exceed one-tenth of one mill.

Approved the 23rd day of May, A. D. 1913.

IV. COUNTY COMMISSION

*New Jersey*¹

SEC. 1601. Every board of chosen freeholders shall have power to prepare and adopt a

¹Laws 1918, ch. 185, Art XVI.

plan for the betterment and the systematic development of the county, and shall have power and authority to employ experts and to pay for their services, and to pay such other expenses as may be necessary for the making of such plan.

SEC. 1602. Every board of chosen freeholders may, by resolution, provide for the establishment of a commission consisting of not more than seven citizens of such county to act as a county plan commission. Such commission, if established, shall have all the power and authority conferred upon boards of chosen freeholders by this article, except that the said commission may expend only such sums as may be appropriated for such purpose by the board of chosen freeholders.

SEC. 1603. Every board of chosen freeholders adopting any such plan, or any county plan commission appointed hereunder, shall endeavor to cause all municipalities within the county, and adjoining it, to co-operate in the laying out of roads and boulevards and in the betterment and the systematic development of the county.

V. CAPITAL CITY COMMISSION

*California*¹

SEC. 1. There shall be a state capital planning commission composed of the governor, and state librarian, *ex-officio* members, and three members to be appointed by the governor, at least one of whom shall be a recognized expert in the planning of cities and towns. Appointive members of this commission shall serve without pay and shall hold office in the first instance for terms respectively for two years, four years, and six years and until their successors have been appointed and qualified. Their successors shall serve for terms of six years each and appointment to fill a casual vacancy shall be only for the unexpired portion of the term. Three shall be a quorum. They may make and alter rules and regulations for their own procedure consistent with the laws of the state. They shall consider all matters in city planning affecting the future needs of the state and the relation of the state plans to those of the capital city.

SEC. 2. They shall confer and advise with the city planning body of the capital city concerning all matters affecting the metropolitan district in and about the said capital city and for a distance within fifteen miles outside the corporate limits of the said city. They shall make recommendations to the governing bodies of all political units within this area and to the governor with regards to all matters of interest to the state in and concerning its capital city with reference to its system of roads, boulevards and thoroughfares, street railway systems, smoke prevention, parks, parkways and playgrounds, water supply, sewage and sewage disposal, collection and disposal of garbage, civic centers, or of other natural or artificial physical features of the district, and of location proposed by it for

any new or enlarged thoroughfares, street railway system, union depot, parks, parkways, playgrounds, water supply systems, sewers, sewage disposal plant, garbage disposal plant and civic centers, or any other public improvement that will affect the character of the district as a whole, to political units within the district. It may make recommendations to the state, city or district governmental authorities, from time to time concerning any such matters or things aforesaid for action by the respective legislative, administrative or governing bodies thereof. In so doing they shall have regard for the present conditions and future needs and growth of the district, and the distribution and relative location of all the principal and other streets and railways, waterways, and all other means of public travel and business communications, as well as the distribution and relative location of all public buildings, public grounds and open spaces devoted to the public use, and the planning and laying out for urban uses of private grounds brought into the market from time to time.

SEC. 3. The state capital planning commission shall make an annual report to the governor which the secretary of state shall cause to be printed as a public document and copies of this report shall be filed with each and every governing body in the district under supervision.

VI. INTERSTATE PLANNING COMMISSION

*The New York, New Jersey Compact for Planning New York Harbor*²

WHEREAS, In the year 1834 the States of New York and New Jersey did enter into agreement fixing and determining the rights and obligations of the two states in and about the waters between the two states, especially in and about the bay of New York and the Hudson River; and

WHEREAS, Since that time the commerce of the port of New York has greatly developed and increased and the territory in and around the port has become commercially one center or district; and

WHEREAS, It is confidently believed that a better co-ordination of the terminal, transportation and other facilities of commerce in, about and through the port of New York, will result in great economies, benefiting the Nation, as well as the States of New York and New Jersey; and

²Adopted by Laws, New York, 1921, ch. 154, and New Jersey, 1921, ch. 15; ratified by resolution of the Congress of the United States, approved by the President.

The plan for the development of the port, proposed by the Port Authority, was accepted by the two States and ratified by Congress and the President in 1922.

The original Compact will be found in Laws, New York, 1834, ch. 8. New Jersey, 1834, p. 118; which was ratified by the United States.

¹ 1915, p. 1514.

WHEREAS, The future development of such terminal transportation and other facilities of commerce will require the expenditure of large sums of money, and the cordial co-operation of the States of New York and New Jersey in the encouragement of the investment of capital, and in the formulation and execution of the necessary physical plans; and

WHEREAS, Such result can best be accomplished through the co-operation of the two states by and through a joint or common agency.

NOW, THEREFORE, The said States of New Jersey and New York do supplement and amend the existing agreement of 1834 in the following respects:

ARTICLE I. They agree to and pledge, each to the other, faithful co-operation in the future planning and development of the port of New York, holding in high trust for the benefit of the Nation the special blessings and natural advantages thereof.

ARTICLE II. To that end the two States do agree that there shall be created and they do hereby create a district to be known as the "Port of New York District" (for brevity hereinafter referred to as "The District") which shall embrace the territory bounded and described as follows:.....¹

The boundaries of said district may be changed from time to time by the action of the Legislature of either State concurred in by the Legislature of the other.

ARTICLE III. There is hereby created "The Port of New York Authority" (for brevity hereinafter referred to as the "Port Authority"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated, and such other and additional powers as shall be conferred upon it by the legislature of either state concurred in by the legislature of the other, or by act or acts of congress, as hereinafter provided.

ARTICLE IV. The port authority shall consist of six commissioners — three resident voters from the state of New York, two of whom shall be resident voters of the City of New York, and three resident voters from the state of New Jersey, two of whom shall be resident voters within the New Jersey portion of the district, the New York members to be chosen by the state of New York and the New Jersey members by the state of New Jersey, in the manner and for the terms fixed and determined from time to time by the Legislature of each State respectively, except as herein provided.

Each commissioner may be removed or suspended from office as provided by the law of the state for which he shall be appointed.

ARTICLE V. The Commissioners shall for the purpose of doing business, constitute a board and may adopt suitable by-laws for its management.

ARTICLE VI. The port authority shall constitute a body, both corporate and politic, with full power and authority to purchase, construct, lease and or operate any terminal or transpor-

tation facility within said district; and to make charges for the use thereof; and for any of such purposes to own, hold, lease and/or operate real or personal property, to borrow money and secure the same by bonds or by mortgages upon any property held or to be held by it. No property now or hereafter vested in or held by either state, or by any county, city, borough, village, township or other municipality, shall be taken by the port authority, without the authority or consent of such State, county, city, borough, village, township or other municipality, nor shall anything herein impair or invalidate in any way any bonded indebtedness of such state, county, city, borough, village, township or other municipality, nor impair the provisions of law regulating the payment into sinking funds of revenues derived from municipal property, or dedicating the revenues derived from any municipal property to a specific purpose.

The powers granted in this article shall not be exercised by the port authority until the legislatures of both states shall have approved of a comprehensive plan of the development of the port as hereinafter provided.

ARTICLE VII. The port authority shall have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of either state concurred in by the legislature of the other. Unless and until otherwise provided, it shall make an annual report to the legislature of both states, setting forth in detail the operations and transactions conducted by it pursuant to this agreement and any legislation thereunder. The port authority shall not pledge the credit of either state except by and with the authority of the legislature thereof.

ARTICLE VIII. Unless and until otherwise provided, all laws now or hereafter vesting jurisdiction or control in the public service commission, or the public utilities commission, or like body, within each state respectively, shall apply to railroads and to any transportation, terminal or other facility owned, operated, leased or constructed by the port authority, with the same force and effect as if such railroad or transportation, terminal or other facility were owned, leased, operated or constructed by a private corporation.

ARTICLE IX. Nothing contained in this agreement shall impair the powers of any municipality to develop or improve port and terminal facilities.

ARTICLE X. The legislatures of the two states, prior to the signing of this agreement, or thereafter as soon as may be practicable, will adopt a plan or plans for the comprehensive development of the port of New York.

ARTICLE XI. The port authority shall from time to time make plans for the development of said district, supplementary to or amendatory of any plan theretofore adopted, and when such plans are duly approved by the legislatures of the two states, they shall be binding upon both states with the same force and effect as if incorporated in this agreement.

ARTICLE XII. The port authority may from

¹The boundaries of the district are omitted.

time to time make recommendations to the legislatures of the two states or to the congress of the United States, based upon study and analysis, for the better conduct of the commerce passing in and through the port of New York, the increase and improvement of transportation and terminal facilities therein, and the more economical and expeditious handling of such commerce.

ARTICLE XIII. The port authority may petition any Interstate Commerce Commission (or like body), public service commission, public utilities commission (or like body), or any other federal, municipal, state or local authority; administrative, judicial or legislative, having jurisdiction in the premises, after the adoption of the comprehensive plan as provided for in Article ten for the adoption and execution of any physical improvement, change in method, rate of transportation, system of handling freight, warehousing, docking, lightering or transfer of freight, which, in the opinion of the port authority, may be designed to improve or better the handling of commerce in and through said district, or improve terminal and transportation facilities therein. It may intervene in any proceeding affecting the commerce of the port.

ARTICLE XIV. The port authority shall elect from its number a chairman, vice-chairman, and may appoint such officers and employees as it may require for the performance of its duties, and shall fix and determine their qualifications and duties.

ARTICLE XV. Unless and until the revenues from operations conducted by the port authority are adequate to meet all expenditures, the legislatures of the two states shall appropriate, in equal amounts annually, for the salaries, office and other administrative expenses, such sum or sums as shall be recommended by the port authority and approved by the governors of the two states, but each state obligates itself hereunder only to the extent of one hundred thousand dollars in any one year.

ARTICLE XVI. Unless and until otherwise determined by the action of the legislatures of the two states, no action of the port authority shall be binding unless taken at a meeting at which at least two members from each state are present and unless four votes are cast therefor, two from each state. Each state reserves the right hereafter to provide by law for the exercise of a veto power by the governor thereof over any action of any commissioner appointed therefrom.

ARTICLE XVII. Unless and until otherwise determined by the action of the legislatures of the two states, the port authority shall not incur any obligations for salaries, office or other administrative expenses, within the provisions of Article fifteen prior to the making of appropriations adequate to meet the same.

ARTICLE XVIII. The port authority is hereby authorized to make suitable rules and regulations not inconsistent with the constitution of the United States or of either state, and subject to the exercise of the power of congress, for the improvement of the conduct of navigation and commerce, which, when concurred in or au-

thorized by the legislatures of both states, shall be binding and effective upon all persons and corporations affected thereby.

ARTICLE XIX. The two states shall provide penalties for violations of any order, rule or regulation of the port authority, and for the manner of enforcing the same.

ARTICLE XX. The territorial or boundary lines established by the agreement of eighteen hundred and thirty-four, or the jurisdiction of the two states established thereby, shall not be changed except as herein specifically modified.

ARTICLE XXI. Either state may by its legislature withdraw from this agreement in the event that a plan for the comprehensive development of the port shall not have been adopted by both states on or prior to July first, nineteen hundred and twenty-three; and when such withdrawal shall have been communicated to the governor of the other state by the state so withdrawing, this agreement shall be thereby abrogated.

ARTICLE XXII. Definitions.—The following words as herein used shall have the following meaning: "Transportation facility" shall include railroads, steam or electric, motor truck or other street or highway vehicles, tunnels, bridges, boats, ferries, car-floats, lighters, tugs, floating elevators, barges, scows or harbor craft of any kind, aircraft suitable for harbor service, and every kind of transportation facility now in use or hereafter, designed for use for the transportation or carriage of persons or property. "Terminal facility" shall include wharves, piers, slips, ferries, docks, dry docks, bulkheads, dock-walls, basins, car-floats, float-bridges, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, and every kind of terminal or storage facility now in use or hereafter designed for use for the handling, storage, loading or unloading of freight at steamship, railroad or freight terminals. "Railroads" shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, power houses, sub-stations, lines for the transmission of power, car barns, shops, yards, sidings, turn-outs, switches, stations and approaches thereto, cars and motive equipment. "Facility" shall include all works, buildings, structures, appliances and appurtenances necessary and convenient for the proper construction, equipment, maintenance and operation of such facility or facilities or any one or more of them. "Real property" shall include land under water, as well as uplands, and all property either now commonly or legally defined as real property or which may hereafter be so defined. "Personal Property" shall include choses in action and all other property now commonly or legally defined as personal property or which may hereafter be so defined. "To lease" shall include to rent or to hire. "Rule and regulation" until and unless otherwise determined by the legislatures of both states, shall mean any rule or regulation not inconsistent with the constitution of the United States or of either state, and, subject to the exercise of the power of

Congress, for the improvement of the conduct of navigation and commerce within the district, and shall include charges, rates, rentals or tolls fixed or established by the port authority; and until otherwise determined as aforesaid, shall not include matters relating to harbor or river pollution. Wherever action by the legislature of either state is herein referred to, it shall mean an act of the legislature duly adopted in accordance with the provisions of the constitution of the state.

Consent, approval or recommendation of municipality; how given. Whenever herein the consent, approval or recommendation of a "municipality" is required, the word "municipality" shall be taken to include any city or incorporated village within the Port District, and in

addition in the State of New Jersey any borough, town, township or any municipality governed by an improvement commission within the district. Such consent, approval or recommendation whenever required in the case of the city of New York shall be deemed to have been given or made whenever the board of estimate and apportionment of said city or any body hereafter succeeding to its duties shall by majority vote pass a resolution expressing such consent, approval or recommendation; and in the case of any municipality now or hereafter governed by a commission, whenever the commission thereof shall by majority vote pass such a resolution; and in all other cases whenever the body authorized to grant consent to the use of the streets and highways of such municipality shall by a majority vote pass such a resolution.

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